

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM YORK COUNTY

John C. Hayes, III, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

GERVAIS EDMONDS, #2,

APPELLANT

RECORD ON APPEAL

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1 (THE COURT IN SESSION MONDAY, NOVEMBER 3, 2009 AT
2 11:02 A.M..)

3 The Court: All right.

4 MS. DESCH: Your Honor, the State would now call the
5 case against Gervais Lavar Edmonds. That is on True Bill
6 Indictment 2009-00396. Mr. Edmonds has been charged with
7 fail to stop for a blue light second offense. Mr. Edmonds
8 was noticed for trial the last court term. My
9 understanding is - and I presented a bond paper work to
10 enter as a court exhibit to show that the bond paper work
11 he was given notice. In addition to that I was informed by
12 the Defense and I don't mean to speak out of turn but the
13 defense did talk to him last Monday, the court term on
14 Monday last which was the 19th of October.

15 MR. SULLIVAN: That's correct.

16 MS. DESCH: Mr. Edmonds did show and speak with the
17 defense, he was notified that, that week he was going to
18 trial and he never showed back up. He was renotified for
19 this week, he has not shown, we would ask to go forward in
20 his absence.

21 The Court: Who represents Mr. Edmonds?

22 MS. DESCH: Mr. Edmonds is represented by Mr. Sullivan

23 THE COURT: All right. Mr. Sullivan, anything you
24 want put on record at this point?

25 MR. SULLIVAN: Your Honor, we do wish to be heard on

1 that very briefly. We would respectfully ask court for a
2 continuance in this case due to Mr. Edmonds absence. I
3 will be candid with the court, we did - Mr. Edmonds was
4 noted for trial last term of court. He appeared for roll
5 call Monday morning. I met with him at my office,
6 discussed with him the option on this case as well. He
7 also has some pending drug charges and the State at that
8 point had presented a plea offer to him which would include
9 resolving both the case against him, this failure to stop
10 as well as the drug charges.

11 At that point he had not been put on notice for the
12 drugs charge he was just placed on notice for his failure
13 to stop. I met with him and discussed the case, this case
14 with him. Mr. Barrowclough from my office also met with
15 him. We explained to him that he was placed on the back up
16 trial board but we told him that he would be free to go but
17 he needed to be on standby. He gave us two phone numbers
18 and we told him to be on immediate stand by, we would
19 contacting him by phone in the event this case was going to
20 be called last week. Both and Mr. Barrowclough and I tried
21 to contact him multiple occasions during that term of court
22 were not able to contact him. My office sent out a new
23 letter to him and actually I will take a step back. We
24 sent out docket letters to him for the October 19th term of
25 court. Actually sent out or our usual docket letter which

1 of course notifies him that he has to be here on Monday at
2 8:30 a.m., otherwise a bench warrant can be issued. At
3 that point I also sent an additional letter notifying him
4 that if he didn't show up that he would be tried in his
5 absence and those were dated October the 13th. And again
6 we met with him on the 19th, that was our last contact with
7 him. My office sent a second docket letter for him to be
8 here for this court term beginning on Monday November 2nd
9 at 8:30 a.m., he did not show yesterday, I have not heard
10 from him.

11 Your Honor, our basis for asking for a continuance is
12 there has been a little bit of change in the circumstances
13 from when we met with Gervais on October 19th. At that
14 point he was presented a six year offer. Of course that
15 would include resolving both this case and the drug
16 charges. He had a co-defendant who is his cousin in the
17 drug charge matter. At that point his co-defendant was
18 presented an offer and it is our understanding on that
19 Monday that the co-defendant was going to be pleading to
20 that three year offer. We talked with Gervais explained to
21 him the situation on the drug charges as well as on this,
22 presented the offer to him. At that point he was inclined
23 not to accept the plea offer. Later on after we released
24 Gervais I learned from Mrs. Desch that Gervais's
25 co-defendant his cousin had received a different plea offer

1 and was willing to testify against Gervais in those drug
2 charge. Its my understanding that he is going to be
3 receiving a substantially lower sentence in exchange for
4 his testimony against Gervais at the drug case.

5 So our concern, Your Honor, with Gervais rejecting the
6 plea offer in his case and also the drug cases that he made
7 that rejection not under the impression that his
8 co-defendant was going to testify against him in the drug
9 charges. At this point he had not been made aware of that
10 so we're concerned his reason for rejecting this plea offer
11 was largely due to his receiving additional time on the
12 drug charges. So that would be our basis for a continuance
13 in this case and I think that that's all we have at this
14 time.

15 The Court: Motion for a continuance denied.

16 MS. DESCH: Thank you Your Honor, .

17 THE COURT: Do you want to have his name called by the
18 bailiff?

19 MS. DESCH: Yes, please.

20 Bailiff, could you call Gervais Lavar Edmonds three
21 times in the hallway?

22 THE COURT: While Mr. Kruger is doing that I might as
23 well go ahead and put on the record that I do have in front
24 of me the bond papers that have been offered and I'll admit
25 them into evidence as Exhibit One, Court's Exhibit.

1 (WHEREUPON: COURT'S EXHIBIT NUMBER ONE, IDENTIFIED
2 AND MARKED, RECEIVED INTO EVIDENCE.)

3 THE COURT: The bond papers indicate and this is the
4 bond for failure to top for a blue light and habitual
5 traffic offender dated 1/24/09. There is an acknowledgment
6 on there signed, reportedly on January the 24th '09 by
7 Gervais Edmonds, including in his acknowledgment of, there
8 are several but this one, one states "I understand and have
9 been informed that I have a right and obligation to be
10 present at trial and should I fail to attend the court the
11 trial will proceed in my absence."

12 All right. You want to swear Mr. Kruger?

13 Please raise your right hand.

14 (WHEREUPON: BAILIFF RICHARD KRUGER, BEING FIRST
15 CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

16 THE COURT: All right.

17 DIRECT EXAMINATION

18 BAILIFF RICHARD KRUGER BY MS. DESCH:

19 Q. Was the name Gervais Lavar Edmonds called in the
20 hallway three times?

21 A. Yes, ma'am.

22 Q. Was there any response from anyone?

23 A. None, ma'am. None

24 Q. Thank you.

25 THE COURT: We all know Mr. Kruger very well but since

1 we're having to have a record made of this do you want to
2 introduce him so we'll know for the record at a later time?

3 BY MS. DESCH:

4 Q. Could you please state your full name and spell your
5 last name for record?

6 A. Richard Kruger, K-r-u-e-g-e-r.

7 Q. And what is your position here at the courthouse?

8 A. I'm a bailiff.

9 Q. Thank you?

10 MS. DESCH: Thank you.

11 THE COURT: Any examination by the Defense?

12 MR. SULLIVAN: None from defense, Your Honor,

13 THE COURT: Thank you.

14 Anything else?

15 MS. DESCH: Nothing from State. We just have a Motion
16 in Limine.

17 THE COURT: Well I hadn't made a finding we can try
18 him in his absence yet.

19 On that issue does the defense have any witnesses or
20 anything else they are going to offer that is on the trial
21 in his absence?

22 MR. SULLIVAN: Nothing additional from the defense at
23 this time.

24 THE COURT: All right. I find that Mr. Edmonds has
25 received his notice of his right to be present, he has been

1 properly warned that the trial will proceed in his absence
2 if he failed to attend. And I find that by his contact he
3 has voluntarily waived his right to be present and he can
4 be tried in his absence by the State. Of course I will
5 instruct the jury that they cannot treat his absence as any
6 evidence of his guilt but we can go forward with the trial.

7 MS. DESCH: Thank you, Your Honor,

8 THE COURT: Anything else from the State before we get
9 the jury up?

10 MS. DESCH: Nothing from State, Your Honor,

11 THE COURT: Anything from defense before we get the
12 jury up?

13 MR. SULLIVAN: Your Honor, we do have a few brief
14 Motions in Limine.

15 THE COURT: All right. I think I've got them written
16 here. All right.

17 The State got 'em?

18 MS. DESCH: The State has them, Your Honor.

19 THE COURT: Number one has the to do discovery.

20 MS. DESCH: The State has provided all discovery
21 including a copy of the in car video from Officer
22 Tallmadge.

23 THE COURT: Number two has to do with impeachment but
24 since Mr. Edmonds is not here we don't need to deal with
25 that but if he appears we can deal with that later.

1 MS. DESCH: Thank you.

2 THE COURT: List of witnesses. Have you given that to
3 the defense?

4 MS. DESCH: The State has provided a witness list.

5 THE COURT: Any Jackson versus Denno?

6 MS. DESCH: There are no statements that would be
7 related to the failure to stop, Your Honor.

8 THE COURT: Any Lyle evidence?

9 MS. DESCH: No character evidence unless the door opened
10 and again we can addresses at the time if he appears.

11 THE COURT: All right. Four and five are your last
12 two. Six is a motion to suppress witnesses, that will be
13 granted.

14 MR. SULLIVAN: Thank you, Your Honor.

15 MS. DESCH: Thank you, Your Honor,

16 THE COURT: All right as to the requested voir dire
17 I've got some from -- Does the State have any?

18 MS. DESCH: Nothing other than the usual.

19 THE COURT: All right. Mr. Sullivan has handed up --
20 Number One looks okay. Two, Three, Four I ask so I believe
21 that all of those would be proper.

22 MR. SULLIVAN: Thank you Your Honor.

23 THE COURT: All right.

24 MS. DESCH: Thank you, Your Honor.

25 THE COURT: Let's get the jury up. And while the jury

1 is coming up give this back to Ms. Janet. I'm going to
2 stand back just for a minute and somebody let me know when
3 we got...

4 (COURT IN RECESS AT 11:14 A.M.)

5 THE COURT: Members of the jury panel, we're going to
6 start our first trial in this courtroom for the week. I
7 did not get to meet you yesterday. I'm John Hayes along
8 with judge Alford I'm the other resident judge in the
9 Sixteenth Judicial Circuit. While he was working with you
10 all we were doing matters up here for which we did not need
11 your assistance.

12 We are starting our first trial for the week here in
13 this courtroom and it is the case of the State of South
14 Carolina versus Gervais Lavar Edmonds. Gervais Lavar
15 Edmonds. He is charged with failure to stop for a blue
16 light. The Indictment alleges that on or about November
17 2nd of last year 2008 right at a year ago Mr. Edmonds was
18 driving a motor vehicle on the roads, street or highway of
19 South Carolina when he had been - and he was signaled
20 properly by law enforcement to stop and he did not comply.
21 That's the name of the defendant and the issue in this
22 case.

23 The State is represented by Mrs. Desch and Ms. Sikora
24 and Mr. Edmonds, I mean Mr. -- yeah Mr. Edmonds is
25 represented by Mr. Sullivan and Mr. Barrowclough.

1 And you'll note that Mr. Edmonds is not here. We in
2 this State are allowed to go forward in the trial of
3 individuals in what is called in their absence if certain
4 conditions are meet and I have determined that the State
5 can go forward and try this case in Mr. Edmonds absence.

6 The fact that he is not here cannot be held against
7 him. He has a right to a fair trial. The State has to
8 prove his guilt beyond a reasonable doubt whether he's here
9 or not. So this does not diminish from any degree the
10 State's obligation by law to prove his guilt beyond a
11 reasonable doubt. And do not hold his absence against him
12 in any way whatsoever if you are seated on this jury panel.
13 I'll ask you some questions somewhat similar to what judge
14 Alford did yesterday and I am going to ask if you need to
15 respond to any of these questions please stand as we go
16 them.

17 First, are any of you related by blood or marriage, or
18 do any you have know Mr. Gervais G-e-r-v-a-I-s, Lavar
19 Edmonds? Anybody know him or related to him, work with
20 him, go to church, school or anything like that with him?

21 No one stands. Have any you have heard about this
22 case from any source whatsoever? I told you the date it
23 happened.

24 Where was the location?

25 MS. DESCH: On Dave Lyle Boulevard.

1 THE COURT: This is alleged to have occurred on
2 November 2nd, 2008 on Dave Lyle Boulevard. Do any of you
3 know anything about this case, heard about it from any
4 source whatsoever? Or have any of you formed or expressed
5 any opinion on any matter of issue which would be involved
6 in this type case if so please stand?

7 No one stands. Were any of you members of the jury
8 which passed on this indictment at an earlier time if so
9 please stand?

10 No one stands. Are any of you members of or
11 contributors to organizations such as Mothers Against drunk
12 Driver's, Students Against Drunk Drivers, Citizens against
13 Violence sometimes referred to as CAVE, Fraternal Order of
14 Police, troopers association, sheriff association, anything
15 like that, if so please stand if you're a member or a
16 contributor?

17 A. Just make donations.

18 THE COURT: All right. That counts if you contribute.

19 A. Yeah.

20 THE COURT: Please stand.

21 A. Okay.

22 THE COURT: Okay. You need to tell us -- both of you
23 remain standing.

24 I'm going -- we usually work from front to back, so
25 sir, I'm going to ask you first your name and your number

-15-

1 and why you're standing.

2 A. Ryan Orehek, my number is 158 and I make donations to
3 the Fraternal Order Of Police every year.

4 THE COURT: You through? I'm sorry.

5 MR. OREHEK: Yes, sir.

6 THE COURT: Just remain standing.

7 Yes, ma'am, your name and number.

8 A. Kathy Clinton, 45 and I do make donations to the
9 South Carolina Troopers and Mother's Against Drunk Drivers.

10 THE COURT: All right. Would the fact that --

11 One more. Yes, sir, your name and number.

12 A. Robert C. Constantine, Number 47. My wife and I do
13 make contributions regularly to the Fraternal Order of
14 Police and MADD.

15 THE COURT: The fact that these donations have been
16 made by the three of you, if that would prevent you from
17 being fair and impartial in this case please raise your
18 right hand?

19 No one does. Thank you. I appreciate it. We ask
20 these questions to get responses and I appreciate your
21 standing.

22 Are any of you or a member of your family involved in
23 law enforcement at any level or in the prosecution of
24 criminal cases at any level? Anything from MP's to the
25 sheriff's office to the U.S. Attorney, US Marshal,

1 Solicitor, any kind of prosecutor.

2 All right. Yes, ma'am, your name and number.

3 A. 250, Connie Youngblood. My son in law is a detective
4 with the city of York and my Bruce Bryant is my cousin.

5 The Court: Okay. Just remain standing.

6 Yes, ma'am.

7 A. Suzanne Hroblak, Number 102. My brother is a former
8 chief of police in Ohio.

9 THE COURT: All right. Just remain standing.

10 Yes, ma'am.

11 A. My sister-in-law works for Sheriff's Department in
12 Marlboro County, South Carolina.

13 THE COURT: Your name and number.

14 A. My name is Susan Woods, my number is 246..

15 THE COURT: All right. With the three of you standing
16 if any of you would be unable to be fair and impartial
17 because of this involvement with who you told me, what you
18 told me, if that would prevent you from being fair and
19 impartial in this case, raise your right hand?

20 All right. You all can be seated.

21 And your name again that raised your.

22 A. Connie Youngblood.

23 THE COURT:: You'll be excused from serving on this
24 panel. Thank you again for being up front with us.

25 Next are the possible witnesses in case. If any of

1 you are either related by blood or marriage or know these
2 individuals, socialize with them, or their family please
3 stand. All of these are officers I presume with the Rock
4 Hill police department.

5 MS. DESCH: Yes, sir.

6 THE COURT: Ken Tallmadge. I don't have his first
7 name but Officer Green, Sergeant Smothers, or Officer
8 Spencer. Anybody know these individuals if so please
9 stand.

10 No one stands.

11 Anything else from the State.

12 MS. DESCH: Nothing from State, Your Honor,

13 THE COURT: Anything from the defense?

14 MR. SULLIVAN: None from the defense, Your Honor.

15 THE COURT: Do any of you know of any reason
16 whatsoever why you could not or should have not serve as a
17 fair and impartial juror in the trial of this particular
18 case if so please stand?

19 No one stands.

20 Now the way we draw juries in this type court setting
21 is as follows. Names will be drawn at random, each side,
22 the State has one side of course and the Defense has the
23 other, each side has the right to strike, that is remove,
24 or excuse is a better way to put it, up to four - I'm
25 sorry, five individuals. Each has five strikes. If you

1 hear your name called please come forward, bring with you
2 any personal belongings that you have so that you won't
3 have to go back and get them and stand by the bailiff who
4 will station himself sort of in the middle out here and
5 when you get up here beside the bailiff turn around and
6 face first the table where the Solicitor's are seated. One
7 of them will say either excuse the juror or present the
8 juror. If they say excuse the juror simply return to your
9 seat. If they say present the juror turn and face the
10 table where Mr. Sullivan and Mr. Barrowclough are seated.
11 One of them will say either excuse the juror, again that
12 means you may return to your seat, or they will say swear
13 the juror. If you hear those words walk over the bailiff
14 will show you to take a seat in the jury box.

15 Both sides consent to the Clerk drawing the jury?

16 MR. SULLIVAN: Yes, sir, Your Honor.

17 MS. DESCH: Yes, sir.

18 THE COURT: All right. Madame Clerk.

19 MADAME CLERK: Number 203, Scott Smith.

20 (WHITE MALE COMING FORWARD.)

21 MADAME CLERK: What say you for the State?

22 MS. DESCH: Please present this juror.

23 MADAME CLERK: Defense?

24 MR. SULLIVAN: Please seat the juror.

25 MADAME CLERK: Please have a seat in the jury box.

1 Number 96, Melissa Holman.

2 (BLACK FEMALE COMING FORWARD.)

3 MADAME CLERK: What say you for the State?

4 MS. DESCH: Please present this juror.

5 MADAME CLERK: Defense?

6 MR. SULLIVAN: Please seat the juror.

7 MADAME CLERK: Please have a seat in the jury box.

8 Number 38, Darrell Canty.

9 (BLACK MALE COMING FORWARD.)

10 MADAME CLERK: What say you for the State?

11 MS. DESCH: Please present this juror.

12 MADAME CLERK: Defense?

13 MR. SULLIVAN: Please seat the juror.

14 MADAME CLERK: Please have a seat in the jury box.

15 Number 239, Sherry Williams.

16 (BLACK FEMALE COMING FORWARD.)

17 MADAME CLERK: What say you for the State?

18 MS. DESCH: Please excuse this juror.

19 MADAME CLERK: You've been excused from this case.

20 Number 249, Patricia Young.

21 (WHITE FEMALE COMING FORWARD.)

22 MADAME CLERK: What say you for the State?

23 MS. DESCH: Please present this juror.

24 MADAME CLERK: Defense?

25 MR. SULLIVAN: Please seat the juror.

1 MADAME CLERK: Please have a seat in the jury box.

2 Number 198, Daniel Sippel.

3 (WHITE MALE COMING FORWARD.)

4 MADAME CLERK: What say you for the State?

5 MS. DESCH: Please present this juror.

6 MADAME CLERK: Defense?

7 MR. SULLIVAN: Please seat the juror.

8 MADAME CLERK: Please have a seat in the jury box.

9 Number 246, Susan Woods.

10 (BLACK FEMALE COMING FORWARD.)

11 MADAME CLERK: What say you for the State?

12 MS. DESCH: Please excuse this juror.

13 MADAME CLERK: You've been excused from this case.

14 Number 47, Robert Constantine.

15 (WHITE MALE COMING FORWARD.)

16 MADAME CLERK: What say you for the State?

17 MS. DESCH: Please present this juror.

18 MADAME CLERK: Defense?

19 MR. SULLIVAN: Please excuse this juror.

20 MADAME CLERK: You've been excused from this case.

21 Number 72, Teresa Harrison.

22 (WHITE FEMALE COMING FORWARD.)

23 MADAME CLERK: What say you for the State?

24 MS. DESCH: Please present this juror.

25 MADAME CLERK: Defense?

1 MR. SULLIVAN: Please seat the juror.

2 MADAME CLERK: Please have a seat in the jury box.
3 Number 1-0-4, Martha Hudson-Lowder.

4 (WHITE FEMALE COMING FORWARD.)

5 MADAME CLERK: What say you for the State?

6 MS. DESCH: Please present this juror.

7 MADAME CLERK: Defense?

8 MR. SULLIVAN: Please excuse this juror.

9 MADAME CLERK: You've been excused from this case.
10 Number 176, Bryan Rabb.

11 (WHITE MALE COMING FORWARD.)

12 MADAME CLERK: What say you for the State?

13 MS. DESCH: Please present this juror.

14 MADAME CLERK: Defense?

15 MR. SULLIVAN: Please seat the juror.

16 MADAME CLERK: Please have a seat in the jury box.
17 Number 23, Donna Bordeaux.

18 (WHITE FEMALE COMING FORWARD.)

19 MADAME CLERK: What say you for the State?

20 MS. DESCH: Please present this juror.

21 (THERE IS NO AUDIO AT THIS POINT IN THE COURTROOM
22 BACKUP TAPE UNTIL THE JURY IS COMPLETELY DRAWN.)

23 (THE FOLLOWING IS EXCEPTS VERBATIM FROM PARTIAL
24 TRANSCRIPT PREPARED BY COURT REPORTER OF RECORD.)

25 (JUROR NUMBER 158, RYAN OREHEK, MALE, WHITE, STRUCK BY

1 THE DEFENSE.)

2 (JUROR NUMBER 33, KAY BUECHNER, FEMALE WHITE, STRUCK
3 BY THE STATE.)

4 (JUROR NUMBER 4, CHERYL ALLEY, FEMALE WHITE, ACCEPTED.

5 (JUROR NUMBER 45, KATHY CLINTON, FEMALE WHITE, STRUCK
6 BY THE DEFENSE.)

7 (JUROR NUMBER 102, SUSANNA HROBLAK, FEMALE WHITE,
8 ACCEPTED.)

9 (JUROR NUMBER 224, CHARLES TOMLINSON, MALE WHITE,
10 ACCEPTED.)

11 (JUROR NUMBER 222, JOSEPH THOMPSON, MALE WHITE, STRUCK
12 BY THE STATE.)

13 (JUROR NUMBER 213, BRENDA STONE, FEMALE WHITE,
14 ACCEPTED.)

15 (JUROR NUMBER 54, AUSTIN CRAWFORD, MALE WHITE,
16 ACCEPTED.)

17 THE COURT: We'll draw one alternate. Strikes will be
18 one and two.

19 (JUROR NUMBER 177, WILLIAM RAWLS, MALE WHITE,
20 ACCEPTED.)

21 THE COURT: Anything from the State involving the
22 striking of the jury panel?

23 MS. DESCH: Nothing from the State.

24 The Court: Anything from the defense involving
25 striking the panel.

1 MR. SULLIVAN: We do have a matter of law we would
2 like to address with the court.

3 THE COURT: All right. I'm going to let the jury -
4 I'm not going swear you in. You don't know much more about
5 this case so don't start discussing the case. In fact as
6 jurors you can't discuss the case until we reach the end
7 and I instruct you to start to deliberate and return a
8 unanimous verdict, but I'm going ask you to go to the jury
9 room while we take up some matters of law.

10 (JURY PANEL EXITS COURTROOM.)

11 THE COURT: Those of you who were not chosen I'm going
12 to have to ask you to step out in the hallway while we take
13 up these matters because we have to take them outside of
14 your presence and we don't have a room big enough and I
15 don't want to you go downstairs. Just go outside and the
16 bailiff will kind of keep you in the same general area.

17 (THE JURY EXITS THE COURTROOM AT 11:50 AM.)

18 THE COURT: Yes, sir.

19 MR. SULLIVAN: We would like to make a brief inquire
20 as to the States reasons, racial reasons for excusing Juror
21 Number 239 and 246.

22 THE COURT: All right, just one minute. 239 and 246.

23 I don't have any information but I presume - listed in
24 there is that your client is a member of a recognized --

25 Well what --

1 MR. SULLIVAN: Yes, sir, Your Honor. My client is
2 African American.

3 THE COURT: Well of course its obvious the jury
4 doesn't know that and won't unless he shows up, but we do
5 need based on a Batson Motion the State to give racially
6 neutral reasons for 239 and 246.

7 MS. DESCH: Your Honor, on those two in particular the
8 State struck them for their records and I will note that
9 the person the State picked Melissa Holman was a black
10 female and the two others that were struck for records was
11 a white male and I struck a white female so I don't see
12 that there's any reason to the Batson --

13 THE COURT: All right. What's the record on
14 Mrs. Williams?

15 MS. DESCH: Ms. Williams had a prior larceny and
16 Ms. Woods had an assault I believe.

17 Yes, sir, Your Honor. Sherry Williams has a larceny
18 out of Charlotte. And Ms. Woods has a - she has charges of
19 an assault and a fraudulent check.

20 THE COURT: All right. I find those are racially
21 neutral reasons.

22 Does the defense wish to show me how that they are
23 actually pretextual?

24 MR. SULLIVAN: No, YOUR Honor. The defense has
25 nothing else.

1 THE COURT: All right. We'll bring the jury back in,
2 in just a second. I'm going to let the rest of the panel
3 go. I'm going to ask Ms. Terry to step out and tell them
4 they can leave but they are to do what, Madame Clerk?

5 MADAME CLERK: Call at One.

6 THE COURT: Call at One. She's got to go that way
7 anyway.

8 All right, is the State ready?

9 MS. DESCH: Yes, Your Honor,

10 THE COURT: The defense ready?

11 MR. SULLIVAN: The Defense is ready, Your Honor,

12 THE COURT: Bring in the jury.

13 (THE JURY RETURNS TO THE COURTROOM AT 11:54 AM.)

14 THE COURT: Now would you stand, the clerk will
15 administer the oath.

16 (THE JURY IS SWORN.)

17 THE COURT: You may be seated. Members of the jury
18 panel I'm going talk to you just for a few minutes and then
19 we'll turn the matter over to the attorneys. The State and
20 the Defense have a right to come before you and make what
21 are called opening statements. They are under no
22 obligation that they do that. If they do chose to make an
23 opening statement, it is just simply that an opening
24 statement. A blue print of the trial. It tells you a
25 little bit more about the case. What the issue are in the

1 trial. They are not arguing their case. They will have an
2 opportunity to do that at a later time. And they are not
3 witnesses so they are not giving you testimony. They will
4 be simply giving you their view of what this case is about.

5 Mr. Edmonds even though he's not here and you heard me
6 say earlier and you will hear me say at least one other
7 time later is entitled to be treated just as though he were
8 here. The fact that he is being tried in his absence
9 cannot be held against him. He has a right to remain
10 silent and he does not need to - and he is presumed
11 innocent so he does not have to prove anything, he does not
12 have to prove his innocence. Whether he's here or not and
13 of course in this case not. The State has to prove his
14 guilt beyond a reasonable doubt before you could convict
15 Mr. Edmonds and find him guilty of the charge. As I said
16 he is presumed innocent. The burden is on the State to
17 proof his guilt beyond a reasonable doubt.

18 I have three primary jobs in this case. One is the
19 organizational kind of stuff, make sure one person is
20 talking at a time, make sure that you can hear, and make
21 sure we take breaks, orderly type responsibility. I also
22 have the responsibility to rule on evidentiary questions.
23 If one side believes certain evidence should be allowed
24 into the record for your consideration and the other does
25 not based on some legal ground it's up to me to resolve

1 that and determine what evidence is allowed and what is
2 not.

3 My third job is that I am the sole judge of the law in
4 this case. I'm giving you some legal principles now.
5 During the trial I may give you some and at the end of
6 trial I'll give you a concise and comprehensive charge on
7 the law that you are to apply to the facts as you determine
8 them to be. You must take accept and apply the law as I
9 charge it even if you think the charge the law in error or
10 even if you think I charge the law in error or even if you
11 think the law should be different. Your oath requires you
12 to take and accept the law from me as I give it.

13 You are not to infer from anything I say or do at any
14 time during this case as being indicative of an opinion of
15 mine on the facts. Our law does not allow a trial jury to
16 formulate or express to a jury any opinion on the facts.
17 It is solely your job to examine the evidence and to give
18 to the evidence the effect the value the weight and the
19 truth you believe it should have. In doing this you may
20 believe one witness as opposed to several, several as
21 opposed to one, you believe all part or none of a witness's
22 testimony. Use your common sense, use your sense of logic,
23 use your sense of reason. You have to as judges of the
24 facts judge the credibility, the believability of the
25 witnesses. Use those things I just discussed and also as

1 to credibility use those things that you find in your life
2 to implicate truthfulness in an individual. You can look
3 at a witness's demeanor whether they are hesitate or
4 straight forward, consistent or inconsistent. Whether they
5 have any reason to help or hurt one side or the other.
6 Determine the true facts apply the law and your verdict
7 will speak the truth.

8 Mr. Foreman, you will preside over the jury's
9 deliberation. Be the liaison between myself and the jury
10 and ultimately enroll the jury's unanimous verdict. If you
11 can't see or you can't hear at any time cup your hear give
12 me a voice raising gesture, a nudging gesture and I'll try
13 to correct what the problem is. It's not fair to ask you
14 to help resolve this case and not give you a full
15 opportunity to see and hear what you in fact need to see
16 and hear.

17 Do not discuss the case among yourselves or try to
18 make up own mind until we've reach the point in the trial
19 where you are instructed to jointly deliberate and return a
20 unanimous verdict. Prior to that time you are not equipped
21 with all the tools you need to make a fair and reasonable
22 decision. Don't let anyone discuss this case with you
23 outside the courtroom. If any tries to discuss this case
24 with you tell them you cannot as you are serving as a juror
25 and report back to me if anyone tries to discuss this case

1 with you.

2 You are not to let yourself hear or see or watch
3 anything that might deal with this trial. I don't think
4 there will be any news coverage but if there is don't let
5 yourself to be exposed to it. Do not do any independent
6 research or do not go on line or try to find out anything
7 about issues or Mr. Edmonds or the lawyers or anything.
8 It's improper for you to do any research about this case on
9 line or off line. But unfortunately we've had problems in
10 the past with jurors not, well with jurors doing things on
11 line while we're in a trial and it ended up with the cases
12 being set aside and had to be retried so don't do any
13 independent research.

14 You don't need to go to Dave Lyle Boulevard to see
15 where this happened. And don't be using any kind -- While
16 you are on the jury you shouldn't have your phones, they
17 will probably be taken up but of course don't communicate
18 with anybody about the trial. We take breaks about every
19 hour and a half. If you need a break at any time let me
20 know. Simply raise your right hand and with no questions
21 asked we'll take a break. I extend that to counsel also.
22 I'm now going to turn it over to the attorneys.

23 MS. DESCH: Thank you, Your Honor. May it please the
24 Court, Your Honor.

25 THE COURT: Yes, ma'am.

OPENING STATEMENT: BY MS. DESCH

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1 MS. DESCH: About a year ago on November 2nd, 2008,
2 Gervais Edmonds was driving his car and got off on Exit 77
3 or 77 and comes across Dave Lyle and got off on that road.
4 He happened to get in front of a marked Rock Hill police
5 officer who noticed that Mr. Edmonds was driving in excess
6 of seventy miles an hour. The officer in the marked police
7 car got behind him and watched as the driver of this
8 vehicle continued to drive what he believed to be reckless
9 and exceeding the speeds of the marked roads. From David
10 Lyle to Mount Gallant and towards Anderson this car
11 continued to drive. At some point Officer Tallmadge turned
12 on his blue lights and siren. The driver of the vehicle
13 ignored that.

14 You can't do that in South Carolina. That's all this
15 case is about. That's all there is to it. Officer
16 Tallmadge is going come in this afternoon and he's going to
17 talk to you about what he saw and heard and did. The Rock
18 Hill police officers have cameras in their car. There is a
19 video of the car driving away from the officer while the
20 blue lights and siren were activated. And the car did not
21 stop. The car did not stop. It's up to you hear to
22 Officer Tallmadge and everything he has to say and what the
23 states presents to you and you have to decide that Gervais
24 Edmonds was driving that vehicle, that the lights and
25 sirens were activated, and that the driver of that vehicle

OPENING STATEMENT: MS. DESCH
MR. SULLIVAN

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1 Gervais Edmonds failed to stop. We're confident when all
2 the evidence is presented to you, you will find him guilty
3 of failing to stop. And I appreciate your time. Thank
4 you.

5 THE COURT: All right.

6 MR. SULLIVAN: May it please the court.

7 THE COURT: Yes, sir.

8 MR. SULLIVAN: It's been said that other than serving
9 your country in a time of war there is not greater service
10 that you can provide than answering the call of jury duty.
11 There is not a roll in this courtroom today, not the
12 Solicitor, not the defense attorney, not even the judge,
13 that's more important than your roll as a jury here today.
14 Because quite simply with without each of you this whole
15 process doesn't work.

16 Your role as jurors is to be the fact finders
17 throughout this trial. It's going to be your job to
18 determine what the true facts of this case are. It's not
19 your job to determine what might have happened or what
20 could have happened. But rather it's your job to determine
21 what happened on November the 2nd, 2008.

22 How are you going to do that. How you going to
23 determine what happened on November the 2nd, 2008. One of
24 ways you are going to be able to do that is by listening to
25 the testimony of individuals who are involved in this case.

1 This afternoon after lunch Tim Tallmadge who was the
2 arresting officer, the officer who arrested Gervais Edmonds
3 is going to come into this courtroom, he's going sit down
4 in that chair and he's going to testify as to his version
5 of what happened that night. I want to you pay close
6 attention to what he testifies to. But also pay close
7 attention to what he doesn't testify to and what he can't
8 testify to because that's also important. And as Ms. Desch
9 indicated there is also going a video in case. A video
10 taken directly from Officer Tallmadge, the car that night,
11 his patrol car.

12 Fortunately for you that video is going to be blown up
13 on the big scene, you're going see exactly what happened on
14 November the 2nd. You are going to see exactly what
15 Officer Tallmadge saw as he was traveling down Dave Lyle
16 Boulevard, or didn't see for that matter. You're going to
17 will be able to hear what Officer Tallmadge said or didn't
18 say to dispatch with respect to a description of driver who
19 was driving the vehicle. You heard Ms. Desch indicate
20 earlier that Officer Tallmadge identified my guy, excuse
21 me, my client as the driver of the vehicle Gervais Edmonds.
22 I submit to you ladies and gentlemen after you view that
23 video, that the evidence is going to show that that's not
24 what happened. You are going to see the video with your
25 own eyes. At no point on this video will you ever see

OPENING STATEMENT: MR. SULLIVAN

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1 whose driving the car.

2 You don't know - we're not going to know who's driving
3 the car after we see the video. I submit to you there's
4 certainly no evidence to indicate that Gervais Edmonds was
5 driving the car that night and that's the reason we're all
6 here. Because the State has charged him with driving a car
7 when he was wasn't driving. You are going hear testimony
8 and you are going to see a video. You're going to use
9 those two tools to help you determine whether or not what
10 happened and whether or not Gervais Edmonds is guilty or
11 not guilty of failing to stop for a blue light.

12 At the end of case Judge Hayes is going instruct you
13 on various principles of law that apply in this case.
14 Again as jurors it's going to be your job do take those
15 rules of principles of law apply them to the facts as you
16 determine them to be, to determine whether or not Gervais
17 Edmonds is guilty or not guilty by failing to stop for a
18 blue light.

19 I'd like to talk to you just briefly about just a
20 couple of those rules and the importance that they play
21 throughout this trial. Presumption of innocence. Gervais
22 Edmonds like all persons charged with a crime is presumed
23 innocent of these charges. That presumption stays with him
24 throughout this trial and it's only removed if and when
25 they've proven that Gervais Edmonds was driving that car

1 and that he failed to stop for a blue light.

2 Mr. Edmonds also has the constitutional right not to
3 testify. If he chooses to exercise that right you in no
4 way can hold that against him. You heard Judge Hayes
5 mention this earlier, Gervais Edmonds is not in the
6 courtroom with us today. That's the decision that he's
7 made and you will mostly likely hear a little bit more
8 about that from Judge Hayes at the conclusion of this
9 trial. But that is something that you are allowed to
10 consider in your deliberations of this case and I ask you
11 to please consider that as you go into the jury
12 deliberation room.

13 Now, I'm sure your asking why do we have all these
14 rules, why do we have all these safe guards in place.
15 That's because the State, the government, they've got the
16 burden of proof in this case. They have to prove their
17 case to you beyond a reasonable doubt.

18 Reasonable doubt. We've all heard it and we all hear
19 it on TV, see it on TV. What is reasonable doubt?
20 Reasonable doubt has been defined in South Carolina by the
21 courts of this state as the kind of doubt that would cause
22 a reasonable person to hesitate to act. Quite simply in
23 other words they have to bring you enough evidence that you
24 believe that Gervais Edmonds was driving that car, that he
25 failed to stop for a blue light without any hesitation.

OPENING STATEMENT: MR. SULLIVAN

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1 That's what that means. I submit to you after hearing the
2 testimony from Officer Tallmadge, after seeing the video
3 with your own eyes, I submit that you are going have some
4 amount of hesitation that Gervais was driving the car. If
5 that's the case I would ask you to return a verdict of not
6 guilty. Thank you.

7 THE COURT: Call your first witness.

8 MS. DESCH: Your Honor, may we approach?

9 THE COURT: Yes, ma'am.

10 (BENCH CONFERENCE OFF THE RECORD AT 12:11 P.M..)

11 THE COURT: Members of jury panel, I read you a list
12 of witnesses earlier and there were four but only one is
13 going to testify and he's not available until 3:30, so
14 we're going to give you an extra long lunch hour. I'm
15 going to ask you to be back in this jury room, not here in
16 the courtroom, but back in the jury room where you were a
17 moment ago and the bailiff will tell you how to get in and
18 out of the building while you are serving as a juror. I'm
19 going to ask you to be back at 3:15. Again that's a long
20 lunch hour but, I'm not sure why the witness can't be
21 earlier but we're going to accommodate him and start back
22 at 3:30. Be back at 3:15 and keep in mind about not
23 discussing the case with anyone that tries to discuss the
24 case with you.

25 (JURY EXITS COURTROOM FOR LUNCH RECESS AT 12:12 P.M..)

1 THE COURT: All right. The Jury is dismissed.

2 Anything before we break?

3 MS. DESCH: Nothing from the State, Your Honor.

4 MR. SULLIVAN: Nothing from the defense, Your Honor.

5 THE COURT: Does the Solicitor have any work for us?

6 Here comes the man that would know.

7 Do you have anything for us to do right now?

8 A. Not right now, Your Honor.

9 THE COURT: What time do you want us to reconvene?

10 A. Two o'clock if the AG has something scheduled with

11 Your Honor.

12 THE COURT: Janet, we'll be back at 1:45. I don't
13 guess we need you all until Two.

14 (COURT IN LUNCH RECESS AT 12:12 P.M..)

15 (COURT RESUMES AT 03:40 P.M..)

16 THE COURT: Is the State ready for the jury?

17 MS. DESCH: Yes, Your Honor.

18 THE COURT: The defense ready for the jury?

19 MR. SULLIVAN: Yes, Your Honor,

20 THE COURT: Bring in the jury.

21 (THE JURY RETURNS TO THE COURTROOM AT 03:41 PM.)

22 THE COURT: Call your witness.

23 MS. DESCH: Thank you. The State would call Ken
24 Tallmadge please.

25 MADAME CLERK: Please raise your right hand, place

OFFICER KENNETH TALLMADGE: DIRECT BY MS. DESCH

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1 your left hand on the Bible.

2 (OFFICER KEN TALLMADGE, BEING FIRST
3 CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:

4 DIRECT EXAMINATION

5 OFFICER KENNETH TALLMADGE BY MS. DESCH:

6 Q. Good afternoon?

7 A. Good afternoon.

8 Q. Could you please state your name and spell your last
9 record?

10 A. My name is Kenneth Roger Tallmadge.

T-

11 a--l-l-m-a-d-g-e.

12 Q. And where do you work?

13 A. Currently I work at BI Incorporated in relation to
14 immigration.

15 Q. And where is that located?

16 A. That's in Charlotte.

17 Q. How long have you worked for BI Incorporated?

18 A. Approximately three months now.

19 Q. And were you with Rock Hill Police Department prior to
20 that?

21 A. I was for four years. I was on the patrol division
22 with Rock Hill.

23 Q. Did you have any other law enforcement or was Rock
24 Hill your law enforcement experience?

25 A. I just volunteered as State constable a year prior.

1 Q. And could you tell the jury about your training and
2 experience in relation to being a police officer?

3 A. Yes. I've had various training with Rock Hill. We do
4 our yearly regales, traffic, driving, you know, certified
5 to operate a breath analysis machine, breathalyser. And we
6 have routine training that we have yearly plus specialized
7 training taken as well.

8 Q. And you indicated that you were a patrol officer while
9 at Rock Hill?

10 A. That's correct.

11 Q. And does that mean that you travel in a marked car in
12 uniform?

13 A. In a marked car in uniform, that is correct.

14 Q. Now you are no longer with Rock Hill. Did you leave
15 on good terms Mr. Tallmadge?

16 A. I did. I had three small children and I my other job
17 is more family friendly more of Eight to Five.

18 Q. And when you -- Were you working with Rock Hill back
19 in November of '08?

20 A. Yes I was on patrol division in '08, uh-huh.

21 Q. So November 2nd, 2008 you were working with Rock Hill?

22 A. That's correct.

23 Q. Were you actually working on the 2nd?

24 A. I was working on the 2nd.

25 Q. Do you remember what shift?

OFFICER KENNETH TALLMADGE: DIRECT BY MS. DESCH

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1 A. That would be third shift 7:00 p.m. to 6:00 a.m. in
2 the morning.

3 Q. And so at some point on 11/2/08 did you come across a
4 brown Nissan Altima?

5 A. I did.

6 Q. And where do you remember coming across that car?

7 A. Myself and Officer McCrorey had responded to a call on
8 Dave Lyle near the mall area. I was come being back from
9 the mall heading towards town on Dave Lyle, at that point
10 there was a brown Nissan came off of I 77 merged -- at exit
11 79, merged onto Dave Lyle in front of my patrol vehicle in
12 reckless manner.

13 Q. And you said that you and officer McCrorey, were you
14 in the same car or two different cars?

15 A. We were in two separate cars then.

16 Q. And when that Altima came across in a reckless manner
17 what did you decide to do?

18 A. At that point we had already been to a another call
19 and had separated. At that time it was just myself. When
20 I saw the vehicle, the vehicle first took a wide swing to
21 the right like they were going turn into Books A Million
22 and then turned to the left and crossed over the left lane
23 and then jerked back into their original lane. At that
24 point I had determined it was a reckless driver possibly
25 driving under the influence and I initiated a traffic stop.

1 Turned my blue light, or attempted to initiate a traffic
2 stop, I put my blue lights on at that time.

3 Q. At that time do you know how close you were to the
4 car?

5 A. At that point I was probably I would say fifty yards.

6 Q. Okay. Just to give perspective, what's fifty yards?
7 Tell me when to stop when you think you are or about how
8 close you were to the car?

9 A. I would say just a little further than you are on the
10 other side of that door.

11 Q. So in other words you're saying at least the width or
12 the length of the courtroom?

13 A. That's correct.

14 Q. What were the conditions? What time of night was
15 this?

16 A. This was approximately 1:20 in the morning.

17 Q. Okay. Now if I understand this right you are on Dave
18 Lyle near the Target, in that area down there?

19 A. That's correct.

20 Q. Where the Manchester Cinema's are?

21 A. Going into town.

22 Q. All right. So what are the lighting conditions on
23 Dave Lyle?

24 A. That particular area is really well lit because that's
25 where all the stores are. And he first merged over to the

OFFICER KENNETH TALLMADGE: DIRECT BY MS. DESCH

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1 right where I thought he was going turn into where all the
2 stores are, but even at that hour they keep them well light
3 just due to the vandalism and such.

4 Q. And at that point were be you able to see who was
5 driving the car or at least how many occupants were in the
6 car?

7 A. At that point I could not see who was driving it but
8 it at that point it appeared to be one person.

9 Q. Okay. So it appeared one person in the driving --
10 you couldn't see in the car. You couldn't see anybody else
11 in the car and not behind it?

12 A. Not at that distance no.

13 Q. Okay. And what happened after you initiated the blue
14 lights?

15 A. As with a normal traffic stop the vehicle appeared --
16 it slowed down took a right on the Mount Gallant Road.
17 Started to slow down like he was going to stop. I was
18 directly behind the vehicle. At that time I was probably
19 one car length behind the vehicle looking at the driver.
20 The driver was looking at me but he was still moving. And
21 I believe at that time we were going about 25 or 30 miles
22 an hour. We probably traveled I would say a quarter mile.
23 At a quarter mile he began to speed up again. I even hit
24 my air horn to -- I saw him look at me and we're looking at
25 each other trying to figure out why he would not stop. I

1 could see him crack the door I was that close and could see
2 his face where he cracked door. I don't know if he was
3 going to jump out of the car with it still moving or toss
4 something that was in the car.

5 Q. And at that point you were able to see who was driving
6 car?

7 A. Oh I had very good vision. We were look at each
8 other, I mean it was -- Even though he was looking in the
9 rear view it was almost eye to eye.

10 Q. And at this point you could tell -- Were there any
11 other cars on the road?

12 A. Just myself and there was another patrol vehicle
13 behind us but no other traffic coming towards us or in
14 front of him.

15 Q. And again just to give the jury perspective, we have
16 now come around where Manchester Cinema's is. Correct? Is
17 that where Mount Gallant comes around?

18 A. That's correct.

19 Q. Back then was the soccer fields there?

20 A. The sock fields were there.

21 Q. So are you on that road behind the soccer fields?

22 A. I'm on that road uh-huh.

23 Q. Okay.

24 A. I did, to get his attention too, I had taken my spot
25 light and had put my spotlight on his car to get his

OFFICER KENNETH TALLMADGE: DIRECT BY MS. DESCH

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1 attention; that and my air horn, to try and to get him to
2 pull over so I had a, you know, very good visual of him.

3 Q. And did he pull over?

4 A. He slowed down and then he I guess he decided not to
5 and he began to increase speed gradually and then even more
6 so until I lost sight.

7 Q. Could you describe to the jury the path that you were
8 traveling at this point?

9 A. The path was pretty much a straight path towards
10 Anderson Road. The entire initiated traffic stop by the
11 time I put the blue lights on until I lost sight was
12 approximately 1.6 Miles. Just when he passed, got over
13 on other side of Anderson Road I could see his car hit the
14 curb right there and then at that point I saw smoke and at
15 that point he was -- by the time I got up there I could not
16 tell which direction he went?

17 Q. Now you indicated when you were back by the soccer
18 fields that there was another patrol car with you.

19 A. That's correct.

20 Q. Were you communicating with the patrol car behind you?

21 A. I was.

22 Q. What were you calling out over the radio?

23 A. I was calling out the -- initially his license plate
24 number, make of the car, and where the traffic stop was
25 initiated.

1 Q. Could you hear other patrolmen responding?

2 A. I did. When I started to call out then - he did not
3 appear to be stopping, he started speeding up, and started
4 calling our speed and direction of travel.

5 Q. And so other officers were responding to help out?

6 A. Yes there was several other officers. There was
7 other than my direct back up behind me there were three
8 other officers in the area.

9 Q. Are you familiar with the speed limits in the areas
10 were you were traveling like Mount Gallant and all that
11 area?

12 A. Mount Gallant where he started to increase his speed
13 that is a 35 miles per hour zone.

14 Q. Okay. And you indicated from Mount Gallant he was
15 headed towards Anderson?

16 A. Yes.

17 Q. What type of road is Anderson?

18 A. Anderson Road is a - it's a and he crossed straight
19 across that, that is a 45 mile an hour zone there, four
20 lane.

21 Q. Now just for point of reference Anderson Road, Mount
22 Gallant Road, Dave Lyle, what types of roads are these.

23 A. Your -- Mount Gallant Road is a what you would
24 consider a cut through road. Dave Lyle is a primary road
25 which is South Carolina 122.

OFFICER KENNETH TALLMADGE: DIRECT BY MS. DESCH

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1 Q. And what --

2 A. And Anderson Road is also a primary road.

3 Q. And by primary do you mean they are public roads?

4 A. Yes. In the city limits of Rock Hill, York County.

5 Q. Now you indicated you followed him for about 1.6
6 miles before you lost sight of him. About how long was
7 that if you remember?

8 A. Everything that occurred there I would say was
9 probably two minutes approximately. It didn't take long.

10 Q. And all this time you had your blue lights going,
11 your sirens and everything was active the entire time you
12 were chasing him?

13 A. That's correct.

14 Q. Where do you remember losing sight of him?

15 A. When I saw him cross Anderson Road and hit the curb
16 and the white smoke at that point that's the last time I
17 saw him, because he at that point he had a pretty much when
18 he started to increase his speed had a good distance on me.
19 I'd say probably 150 yards easy.

20 Q. What did do you when you lost sight of the car?

21 A. When I lost sight of the car I called out the last
22 observed spot that I had seen him, description of the car,
23 and what units were in the area.

24 Q. And at some point did you find the car again?

25 A. Yes. Sergeant Smothers located the car at the dead

1 end of Greenbrier Road.

2 Q. Now as far as away is Greenbrier from where you were
3 when you lost sight of him?

4 A. I would say 200 yards approximate. The section where
5 it was there is a neighborhood right there are several
6 little small roads right in there and that was, it was
7 located within ten minutes of us going through those roads.

8 Q. Now would looking at a map help you describe to the
9 jury what - the route that you were taking that evening?

10 A. Yes.

11 Q. Show the jury the map.

12 MS. DESCH: Your Honor, at this point we'd like to
13 label the map for demonstrative purposes.

14 THE COURT: Certainly.

15 (WHEREUPON: STATE'S EXHIBIT NUMBER FOUR PREMARKED
16 FOR IDENTIFICATION.)

17 BY MS. DESCH:

18 Q. That's going to take up a minute to warm up so in the
19 mean time. You indicated that the car was found about 200
20 yards from where you last saw it. How soon time wise did
21 you find the car if you remember?

22 A. Time wise it was properly between eight and ten
23 minutes.

24 Q. And did you -

25 A. I did have to order a roll back because one of the

OFFICER KENNETH TALLMADGE: DIRECT BY MS. DESCH

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1 tires were punctured.

2 Q. What does a roll back mean?

3 A. That is - that's where like a flat bed on a wrecker.
4 on that. Just means it's disabled where they would not be
5 able to transport that with a normal wrecker but there was
6 damage to that tire, the right front tire.

7 Q. So when you actually got to examine the car that you
8 found you - -

9 A. Uh-huh. There was damage to the right front tire.
10 And when we were coming across he must have - when I saw
11 him hit - strike the curb that must be when he popped his
12 tire at that point.

13 Q. Okay. So the car you found abandoned two hundred
14 yards, the brown Nissan that you found abandoned, that had
15 damage consistent with what you saw the driver doing with
16 when he crossed over and hit the curb?

17 A. That's correct.

18 Q. Now if I can bring your attention up here, if you
19 could, could you step down here and point out to the jury
20 the path from which...

21 (WITNESS LEAVES WITNESS STAND.)

22 MS. DESCH: Madame Clerk, if we could cut the lights
23 please.

24 (COURTROOM LIGHTS TURNED DOWN.)

25 Q. And if you could show us where you first came in

1 contact with the brown Nissan Altima?

2 A. Okay. This right here in red, this red dot here,
3 this is my patrol car. This David Lyle, South Carolina 122
4 is heading towards downtown Rock Hill. This -- coming in
5 this is Exit 79 here. I was traveling in this direction.
6 The brown Nissan is where you see the blue dot here. He
7 actually pulled in front of me here. This entry way this
8 is where Books A Million and all very well lit area here.
9 He merged over like he was going to turn in here, came
10 across into this lane almost like he was going to the
11 Kangaroo side and came back into his original lane. At
12 that point right around where you see the 122 I initiated
13 my lights and he got - followed, came here, slowed down a
14 bit, turned to the right here. This is Mount Gallant Road.
15 And Mount Gallant, this is the soccer complex in Rock Hill,
16 and it's pretty much a straight path. And once he slowed
17 down here and once he hit this straight a way that's when
18 he begin to increase speed. You see the -- where I lost
19 sight is that final red dot at the top which is York/
20 Anderson Road. And where you see the car, where you see
21 the 22, the blue car, the numbers look like a patrol car
22 there, that is the final resting spot of the vehicle where
23 it was located.

24 Q. Just so we can lay a foundation for the record.

25 The red dot on the map is in the bottom right hand

OFFICER KENNETH TALLMADGE: DIRECT BY MS. DESCH

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1 corner of the map on the top demonstrated in the courtroom.

2 And you indicated it's straight down Dave Lyle
3 Boulevard and up Mount Gallant towards Anderson. And you
4 lost sight in the top left hand corner of the map?

5 A. That's correct?

6 Q. And that's in this car on the left hand corner,
7 that's the car, that's the Nissan that you found
8 abandoned.?

9 A. That's correct. And there are several, this is
10 neighborhoods where that car is, there is several little
11 side streets in that section there.

12 Q. If I were to show you a satellite imagine could you
13 look at that and get a little more detail about what you
14 found when you found the car?

15 A. Yes.

16 Q. Now could you describe to the jury, show the jury
17 where the neighborhoods are that you are speaking of?

18 Q. The neighborhoods are right where the patrol car is.
19 There is a wooded section where the car is. Sergeant
20 Smothers he keyed up on his radio and stated that he could
21 here someone running through that area.

22 MR. SULLIVAN: Objection. Hearsay, Your Honor,

23 THE COURT: I sustain the objection.

24 Don't go into what somebody said on the radio.

25 A. Okay.

1 He was located by Officer Green on other side of the
2 wooded area.

3 Q. When you say he was located -

4 A. Mr. Edmonds was located.

5 Q. Thank you. If you could sit back down and I'll go
6 over a few more things please.

7 (WITNESS RETURNED TO WITNESS STAND.)

8 Q. Now you've shown on the map the car where it was
9 located. You indicated that there was a wooded area. How
10 far from that abandoned Nissan was the wooded area?

11 A. That was within almost from us to - me to you I would
12 say.

13 Q. So probably about half the length of the courtroom.
14 About 25 yards?

15 A. That's where you, that's where there were - yes,
16 that's correct.

17 Q. And you indicated that - When you say he was found,
18 you mean Mr. Edmonds was found coming out of the other side
19 of the woods?

20 A. Mr. Edmonds the defendant, yes. Yes, ma'am.

21 Q. And how - Tell the jury a time frame. If could you
22 break it down to when you lowest sight, when the car is
23 found abandoned and when Mr. Edmonds is found coming out of
24 the woods.

25 A. When I lost sight to when the car was located was

OFFICER KENNETH TALLMADGE: DIRECT BY MS. DESCH

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1 between eight and ten minutes. From the time he was
2 located, the defendant Mr. Edmonds located coming out of
3 that wooded section, he was probably in the woods I would
4 say another ten minutes.

5 Q. Now this is -

6 A. It's a very thick area so you could hear crackling and
7 such.

8 Q. Now this is about 1:30 in the morning at this point or
9 1:45 in the morning?

10 A. That's correct.

11 Q. Other than the other patrol officers or law
12 enforcement that was out there, were there any civilians for
13 lack of a better word running around that area?

14 A. None that I recall.

15 Q. Any houses with lights on or anybody outside on their
16 porches at 1:30 in the morning?

17 A. I did not seen anyone outside.

18 Q. When did you personally make contact with Mr. Edmonds
19 again?

20 A. He was -- Mr. Edmonds the defendant was transported by
21 Officer Spencer back to the vehicle where I was waiting by
22 the vehicle.

23 Q. So you are standing by ---

24 A. Which was at the end of Greenbrier.

25 Q. --- the Nissan Altima that had been abandoned and the

1 defendant was brought to you?

2 A. That's correct.

3 Q. And did you get a good look at him at that point?

4 A. I did.

5 Q. How was he acting at this point?

6 A. His speech was slurred. He was - appeared to be very
7 intoxicated at that point. But when I had a visual of him
8 that was, you know, no doubt in my mind I gave a positive
9 identification that, that was the driver of that vehicle.

10 Q. If we could, if I could approach?

11 I'm showing you what has been marked as State's
12 Exhibit Two for identification. Do you recognize that?

13 A. Yes I do. I recognize that as Mr. Edmonds the
14 defendant.

15 Q. And that is the person you identified as driving the
16 vehicle the Nissan Altima on 11/2/08?

17 A. That is correct.

18 Q. And is that picture - That's a photo, does it fairly
19 and accurately represent how he looked on 11/2/08?

20 A. Yes it does.

21 Q. Okay.

22 MS. DESCH: Your Honor, the State would like to move
23 that into evidence as State's Exhibit Two.

24 MR. SULLIVAN: Can I take a look at that, Your Honor?

25 THE COURT: Yes, sir.

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1 (DEFENSE ATTORNEY REVIEWING STATE'S EXHIBIT TWO.)

2 MR. SULLIVAN: Without objection, Your Honor,.

3 THE COURT: In without objection.

4 (WHEREUPON: STATE'S EXHIBIT NUMBER TWO, IDENTIFIED
5 AND MARKED, RECEIVED INTO EVIDENCE.)

6 MS. DESCH: Thank you.

7 Q. If we could get back a little bit to when you find the
8 car. When you found the car the driver wasn't in it.
9 Correct?

10 A. That's correct.

11 Q. Did you have a chance to look at the car and really
12 examine the condition of the car at that point?

13 A. I did.

14 Q. And tell the jury about the condition of the car at
15 that point?

16 A. The condition of the car, the front right tire was
17 flat. It appeared to be resented damage. The - I put my hand
18 on the hood of car and the car, this was November it was a
19 pretty cool night, and the engine was hot and there was
20 actually steam coming off of the car. Not like the radiator
21 but it was just like steam where the engine was hot.

22 Q. And did you go in the car at any point?

23 A. I did.

24 Q. Did you find the keys in the car?

25 A. No there were no keys in the car.

1 Q. What - Could you describe anything that you found in
2 the car or?

3 A. We were trying to --

4 MR. SULLIVAN: Objection to the leading, Your Honor,

5 THE COURT: Yeah.

6 Rephrase your question. Don't ask leading questions.

7 BY MS. DESCH:

8 Q. What did you find in the car?

9 A. I found --

10 MR. SULLIVAN: Objection to leading, Your Honor,

11 THE COURT: Just --

12 BY MS. DESCH:

13 Q. What if anything did you find?

14 A. I performed an inventory on the car.

15 Q. Okay. And would you when say performed an inventory
16 could you please tell the jury what means?

17 A. What we have to do before we have a car towed, and it
18 appeared to be an abandoned car. we go through the car and
19 inventory any items in the car and look up the owner of the
20 car.

21 Q. Okay.

22 A. I believe that car came to a Ms. Spratt which was the
23 wife of the defendant.

24 Q. So the car was owned by the defendant's wife?

25 A. That's correct. There was a work order in the car

OFFICER KENNETH TALLMADGE: DIRECT BY MS. DESCH.

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1 that had --

2 MR. SULLIVAN: Objection, Your Honor.

3 THE COURT: Let's move on to something else.

4 Q. When you performed the inventory are you taught by
5 Rock Hill Police Department how to do an inventory per
6 policy?

7 A. Yes. I'm also trained as a field training officer for
8 the city of Rock Hill. I train new recruits and that is
9 part, when I train new recruits I can show them how to
10 properly inventory a car, inventory any property as I was
11 trained by my field training officer, and per policy general
12 order.

13 Q. And what's the purpose of an inventory search?

14 A. Inventory, that protects the owners of the car to make
15 sure everything is in the condition that it's documented
16 when that is towed and the owner is able to have their car
17 released.

18 Q. And you did perform an inventory search on the car
19 that was found, the Nissan Altima?

20 A. That is correct.

21 Q. And what happened? What happened as a result of that
22 inventory search?

23 A. I inventoried a bottle of Colt 45. I inventoried a
24 work order with the defendant's name on it.

25 MR. SULLIVAN: Objection.

1 THE COURT: I overrule rule the objection.

2 Q. If you could finish that sentence?

3 A. I inventoried a work order that had the defendant's
4 name on the work order where he had recent work performed to
5 the vehicle?

6 Q. So when you say work order, do you mean like a piece
7 of paper where he did work and he got paid for?

8 A. It was where he had mechanical work performed on the
9 car and he was as the owner of the car.

10 Q. Oh. So he got work done on car the car in his name
11 and he paid for the work on that car?

12 A. That's correct.

13 Q. And it said Gervais Edmonds?

14 A. That is correct.

15 Q. And where did you find that if you remember?

16 A. That was found in the glove compartment which was
17 unlocked.

18 Q. Now if we could drawn your attention to when you come
19 across Mr. Edmonds again. When he's brought to you and you
20 have now identified him as the driver of car what did you do
21 next?

22 A. At that point I began to speak to Mr. Edmonds. He was
23 incoherent at the time, his speech was extremely slurred.
24 He was placed under arrest, he was transported back to the
25 Rock Hill Police Department, the law center.

OFFICER KENNETH TALLMADGE: DIRECT BY MS. DESCH

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1 Q. When you put somebody under arrest what do you do?

2 A. When we place them under arrest we inform them why
3 they are being arrested. We place the handcuffs on them,
4 double locked handcuff, and we search them. Search
5 incident to arrest I located in his back right pocket the
6 keys to the vehicle and those were tested and it did match
7 the vehicle.

8 Q. So the keys you found on Gervais Edmonds are the ones
9 that matched the Nissan Altima?

10 A. That's correct.

11 MS. DESCH: The Court's indulgence.

12 (PAUSE.)

13 Q. Now the car that you were in, the patrol car you were
14 in, is it equipped with a video camera?

15 A. It is. My patrol vehicle was Vehicle Number 83 and I
16 did have a digital camera in my car.

17 Q. Could you tell the jury how that works?

18 A. The way our camera are designed is when you initiate
19 your blue lights which you activate the blue lights on
20 vehicle for - unless you have a traffic stop it is
21 automatic that the camera initiates at the same time
22 simultaneously. It records and you physically have to turn
23 the camera off when the traffic stop is conducted.

24 Q. And so everything that's going on is recorded then
25 how does it get to something where somebody can watch it?

1 A. What we do we have to just like a computer you have
2 to -- that is wirelessly transmitted to our database at the
3 law center. When you pull up it down loads and it goes
4 into a computer data file, from there I physically go in,
5 type in my access code, my name; the case number, and down
6 load that and burn that to a CD and the officers do that
7 themselves.

8 Q. I'm showing you what has been marked on the outside
9 of a envelope as State's Exhibit One. Could you take the
10 CD out of that and tell me what you recognize it to be?

11 A. This CD is has the defendant's name on it, 11/2 of
12 2008. And it has a certificate copy number. This is the
13 DVD that I burned on that evening.

14 Q. So this is the DVD that you burned from the recording
15 of you following the Nissan Altima drive by Gervais
16 Edmonds?

17 A. That is correct.

18 Q. Okay. For the record this is a copy that we've
19 provide to defense but this is what we just showed the
20 witness.

21 And this is the same copy that came from your car on
22 11/2/08?

23 A. That's correct. The heading on that I typed that in.
24 We type that in ourselves.

25 MS. DESCH: Your Honor, the State would like to move

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1 that into evidence as State's Exhibit One.

2 THE COURT: Any objection?

3 MR. SULLIVAN: Without objection, Your Honor,

4 THE COURT: In without objection.

5 (WHEREUPON: STATE'S EXHIBIT NUMBER ONE IDENTIFIED
6 AND MARKED, RECEIVED INTO EVIDENCE.)

7 MS. DESCH: May we publish this to the jury, Your
8 Honor.

9 THE COURT: Yes, ma'am.

10 (STATE'S EXHIBIT NUMBER ONE PUBLISHED TO THE JURY.)

11 Q. Could you describe where you were at this time?

12 A. At this point. When we videoed we had already passed
13 Books A Million on Dave Lyle just before Mount Gallant,
14 turned right and that's Mount Gallant just before the
15 soccer complex.

16 Q. This is the Altima that Mr. Edmonds was driving?

17 A. That's correct. I had just -- spotlights where I get
18 a good visual.

19 Q. That noise we heard what was that?

20 A. That was my air horn trying to get his attention to.
21 Normally someone has already pulled over at that point.

22 And on this particular video I would like to say I
23 have a ear --

24 MR. SULLIVAN: Objection, Your Honor, there is no
25 question.

1 THE COURT: Wait until she asks a question.

2 Q. You indicated earlier that there is a - the point I
3 think that we just saw that there was a spotlight that you
4 were showing. This is from you're describing how you can
5 see the driver of the car?

6 A. That's correct.

7 Q. What other equipment do you have on you or in the
8 car?

9 A. I have a body mic, digital camera, and you have
10 lights that are the light bar, LED light bar. That's one
11 of the newer cars. It was activated at that time.

12 (STATE'S EXHIBIT NUMBER ONE PUBLISHED TO THE JURY.)

13 Q. Where are you at this point?

14 A. This is where we're hitting - just passed the soccer
15 complex and this is the straight a way.

16 Q. And this is still Mount Gallant?

17 A. That's still Mount Gallant before you get to Anderson
18 Road.

19 Q. And you indicated that was - what was the miles per
20 hour on that road?

21 A. That is a 35 miles-per-hour zone.

22 Q. And down in the left corner where it has GPS data
23 speed 57, is that your car?

24 A. That is the patrol car.

25 Q. So in the left hand corner is recording how fast you

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1 were going attempting to catch up with Mr. Edmonds?

2 A. That is correct.

3 Q. So at this point he's in excess of 20 mile per hour
4 over the speed limit?

5 A. That's correct.

6 (STATE'S EXHIBIT NUMBER ONE CONTINUED TO BE PUBLISHED
7 TO THE JURY.)

8 Q. Where are you at this point? Is that Anderson Road?

9 A. That's Anderson Road.

10 Q. So he was getting into excess of 70 miles an hour
11 approaching Anderson Road?

12 A. And if that were blown up you can actually see on
13 that
14 video where he strikes the curb.

15 (STATE'S EXHIBIT ONE CONTINUED TO BE PUBLISHED TO THE
16 JURY.)

17 Q. Where are you now?

18 A. We're - I'm sitting there riding around the
19 perimeter, we're got all the cars we're all looking for the
20 video equipment at this time.

21 Q. Can you see where my curser is?

22 A. Uh-huh.

23 Q. Right here?

24 A. Uh-huh.

25 Q. There was a red light there now there is not. What

1 does that mean?

2 A. I must have deactivated some of my lights on the car.

3 Q. So if we back up a bit, the red light means that the
4 blue lights are going?

5 (STATE'S EXHIBIT NUMBER ONE CONTINUED TO BE PUBLISHED
6 TO THE JURY.)

7 A. It has it but I can't read it from here but there are
8 it will let you know when each one of those boxes when the
9 siren is initiated and the air horn and all.

10 (STATE'S EXHIBIT NUMBER ONE CONTINUED TO BE PUBLISHED
11 TO THE JURY.)

12 A. You can actually see other patrol cars starting to
13 circle.

14 Q. Now we can hear the radio playing but are you calling
15 something out over the radio?

16 A. The second car - What happens is the first car was
17 trying to locate the vehicle, the second car always calls
18 out the speed and everything. And I have - you can't hear
19 my radio I have a ear mic.

20 Q. So you and the car behind you are talking?

21 A. He's calling out everything, Officer McCrorey was
22 calling out everything at that time.

23 (STATE'S EXHIBIT NUMBER ONE CONTINUES TO BE PUBLISHED
24 TO THE JURY.)

25 Q. So this video ends prior you to getting to the

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1 abandoned car?

2 A. That's correct.

3 Q. And you got out and approached the abandoned car --

4 Well let me ask it this way. Did you get out and
5 approach it on foot?

6 A. Yes. Sergeant Smothers was at the vehicle and I did
7 get out and walk around the car initially.

8 Q. And the video camera is only attached to the car you,
9 don't have any video camera that's on your body?

10 A. No, ma'am.

11 Q. And just to reiterate, looking at State's Exhibit
12 Two, is there any question in your mind that is Gervais
13 Edmonds the driver of the car?

14 MR. SULLIVAN: Objection. Asked and answered, Your
15 Honor,

16 THE COURT: I overrule the objection.

17 Q. Is there any question in your mind that this Gervais
18 Edmonds as the driver of the car on 11/2/08?

19 A. No question whatsoever.

20 MS. DESCH: Please answer any questions that Mr.
21 Sullivan or Mr. Barrowclough has.

22 CROSS EXAMINATION

23 OFFICER KENNETH TALLMADGE BY MR. SULLIVAN:

24 Q. Mr. Tallmadge, you indicated that you were, you were
25 a former patrol police officer with Rock Hill Police

1 Department. Correct?

2 A. That's correct.

3 Q. But you are no longer working as a law enforcement
4 officer?

5 A. That's correct.

6 Q. Okay. On November 2nd, 2008, you were working as a
7 patrol officer. Correct?

8 A. That's correct.

9 Q. You are also the case agent in this case?

10 A. That's correct.

11 Q. Correct? And as the case agent you have many
12 different responsibilities don't you?

13 A. Uh-huh.

14 Q. You have to -

15 A. Yes I do.

16 Q. Okay. One of your responsibilities as a case agent
17 is preparing an incident report for this case. Correct?

18 A. That's correct.

19 Q. You prepare an incident report any time you make an
20 arrest?

21 A. That's correct.

22 Q. So preparing an incident report is something that's
23 very familiar to you?

24 A. Yes it is.

25 Q. And you would agree that an incident report is a very

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1 important part of any case. Correct?

2 A. Yes.

3 Q. You try to put as much information into these
4 incident report. Correct?

5 A. That's correct.

6 Q. Incident reports typically include any information
7 you feel is important to that case?

8 A. That's correct.

9 Q. These reports are helpful to the Solicitor who is
10 prosecuting the case? Correct?

11 A. Correct.

12 Q. And they are also helpful to an officer who may have
13 to come into court many months later to testify. Correct?

14 A. That's correct.

15 Q. So it's important for you to be detailed when you
16 prepare these incidents reports?

17 A. Yes.

18 Q. And it's important for you to be as accurate as
19 possible when preparing these incident reports.

20 A. That's correct.

21 Q. Because you don't want to leave anything out of this
22 these reports.

23 A. Correct.

24 Q. You also prepared a case summary in this case didn't
25 you?

1 A. Yes I did.

2 Q. Like an incident report you put facts of the case
3 that you feel are important in that case summary. Correct?

4 A. That's correct.

5 Q. It's also important to be detailed and accurate when
6 you prepare this case summary. Correct?

7 A. Yes.

8 Q. Okay. You reviewed your incident report prior to
9 coming into court today?

10 A. That and the case summary that's correct.

11 Q. You reviewed both of them?

12 A. Yes I did.

13 Q. Okay. And as the case agent you were also
14 responsible for making the charging decisions in this case
15 weren't you?

16 A. That's correct.

17 Q. You made the decision to arrest Gervais Edmonds for
18 failure to stop for a blue light didn't you?

19 A. Yes I did.

20 Q. It's your name on that paperwork?

21 A. Yes.

22 Q. And your decision to arrest Gervais Edmonds is based
23 upon and an identification that you made of this driver as
24 he was turning onto Mount Gallant Road?

25 A. Yes as he was - actually as he was traveling down

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1 Mount Gallant Road.

2 Q. Okay. But that's the basis of your decision to
3 charge him for failure to stop blue light was that
4 identification?

5 A. That is correct.

6 Q. Okay. This incident took place a year ago. Correct?

7 A. That's correct.

8 Q. A Saturday night?

9 A. I'm not sure which day of the week it was at that
10 time but ---

11 Q. But you were working -

12 A. --- in November 2nd at 1:28 in the morning yes.

13 Q. But you were on routine patrol that night?

14 A. That is correct.

15 Q. You were patrolling the area of Dave Lyle Boulevard
16 and I-77?

17 A. I responded to a call in that area, that is correct.

18 Q. Is that your assigned area?

19 A. No it's not but we work there every week.

20 Q. Okay. So you are familiar with that area of Rock
21 Hill?

22 A. Absolutely I go to several calls.

23 Q. And you're familiar with the Greenbrier Avenue area?

24 A. Yes.

25 Q. Okay. This incident occurred at about 1:20 in the

1 morning. Correct?

2 A. That's correct.

3 Q. So it's nighttime obviously, you can see on video.

4 It was nighttime when you conducted a traffic chase?

5 A. Yes.

6 Q. It was dark outside?

7 A. Yes it was.

8 Q. That's one of the reasons that you lost sight of this
9 car. Correct.

10 A. That's correct.

11 Q. So the fact that it was dark outside made it
12 difficult for you to see that night?

13 A. Not with my spotlight. It opened up the car.

14 Q. You had your spotlight when you lost track of the
15 car. Correct?

16 A. On the video I actually put the spot light before I
17 lost track of the car.

18 Q. You had the video or you had the spotlight as you
19 were chasing the car. Correct?

20 A. That is correct.

21 Q. You had the spot light as you were after you lost
22 sight of vehicle. Correct?

23 A. No. I put the spotlight on before I lost sight of
24 vehicle. As soon as we made the turn and he didn't stop I
25 was hitting the air horn. On you can video you can see me

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1 adjust the spot light so I could get a better vision.

2 Q. So its your testimony that the fact that it was dark
3 outside it didn't make it difficult for you to see?

4 A. Not with my spot light. Originally before I hit my
5 spot light yes. That's why we have that equipment on the
6 car so I can see better.

7 Q. Do you see as well in the dark as you do in the day
8 light.

9 A. No.

10 Q. Now you told Ms. Desch, you testified earlier that
11 you observed this brown Nissan Altima exit Interstate 77
12 southbound and merge onto Dave Lyle?

13 A. Exit 79.

14 Q. Excuse me, 79.

15 A. Uh-huh.

16 Q. You told Ms. Desch that it was traveling at a high
17 rate of speed?

18 A. Yes. Well no. At that point it was, it did not
19 slow down as it was yielding and it was driving in a
20 reckless manner.

21 Q. It was driving recklessly?

22 A. Yes.

23 Q. Okay. But it wasn't speeding?

24 A. At that point it was - it was hard to tell if it was
25 speeding at that point.

1 Q. According to your testimony you indicated that he was
2 weaving from one lane into another?

3 A. That is correct.

4 Q. Correct? And you were behind this Nissan that was
5 traveling down Dave Lyle Boulevard towards downtown Rock
6 Hill. Correct?

7 A. Correct. Uh-huh.

8 Q. And there were other cars in the area that night?

9 A. At that point I don't remember a lot of traffic on
10 the road.

11 Q. You don't recall seeing any other cars in the video?

12 A. In the video I did yes.

13 Q. So there were other cars on Dave Lyle Boulevard that
14 night?

15 A. I remember seeing other cars on Mount Gallant but I
16 imagine there was maybe a car here and there and on Dave
17 Lyle.

18 Q. And you indicated that it changed lanes without
19 signaling. Correct?

20 A. That's correct.

21 Q. That's one of the factors that you -- the reason you
22 thought it was driving recklessly?

23 A. Yes.

24 Q. Okay. And the car again as it was traveling down
25 Mount Gallant after it rounded the turn that's when the car

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1 beginning speeding?

2 A. Yes when we hit the straight a way.

3 Q. So it was speeding as you were traveling up Mount
4 Gallant Road ---

5 A. Yes.

6 Q. --- towards Anderson Road. In fact at one point I
7 think you indicated or in -- the discovery indicates that
8 you clocked the Nissan going 59 miles per hour.

9 A. That was my patrol car speed.

10 Q. Okay. So if you were going 59 miles per hour that
11 means the car would be going even faster than that?

12 A. That's correct.

13 Q. Okay. And you say it prescribed the speed limit on
14 that road as 35 miles per hour?

15 A. That's correct.

16 Q. So your patrol car was going approximately 25 miles
17 per hour over the speed limit?

18 A. Yes.

19 Q. And the brown Nissan would have been traveling even
20 faster than that. Correct?

21 A. That's correct.

22 Q. As a police officer one of the things you want to do
23 of course when you are conducting a traffic chase is that
24 you are trying to avoid an accident. Correct?

25 A. Uh-huh.

OFFICER KENNETH TALLMADGE: CROSS BY MR. SULLIVAN

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1 Q. You are concerned about safety?

2 A. Yes.

3 Q. Safety is your priority?

4 A. Yes.

5 Q. You don't want to place any other innocent bystanders
6 into any dangerous situations. Correct.

7 A. That's correct.

8 Q. You don't want to wreck your patrol car?

9 A. Uh-huh.

10 Q. Okay. You make sure to not cross the center line?

11 A. Uh-huh.

12 Q. You make sure to drive as safely as possible during
13 the traffic stop?

14 A. That's correct.

15 Q. And these things all require your attention don't
16 they?

17 A. That's correct.

18 Q. Now according to your in car video you pulled into
19 the Rock Hill sally port at approximately 2:30 a.m.
20 Correct?

21 A. I believe it was around that time.

22 Q. Okay. And when you pulled into Sally port Gervais
23 Edmonds was in the back of your patrol car?

24 A. That's correct.

25 Q. The reason he was in the back of your patrol car is

OFFICER KENNETH TALLMADGE: CROSS BY MR. SULLIVAN

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1 because he was arrested ---

2 A. Yes.

3 Q. --- earlier that evening?

4 A. Yes.

5 Q. And you arrested him near the Executive Inn in Rock
6 Hill. Correct?

7 A. That's correct.

8 Q. And that's the area you referenced to the wooded area
9 off of Anderson Road?

10 A. Yes?

11 Q. At that hour of the night it takes about five minutes
12 to travel from the Executive Inn to the Rock Hill Police
13 Department. Correct?

14 A. I would say roughly.

15 Q. Okay. And you went straight from the Executive Inn
16 to the police department?

17 A. When we were there we had him in the back of the car,
18 waited on the tow truck, made sure of the inventory.
19 There's other items that we did with him in the back of car
20 while we were waiting on the tow truck.

21 Q. So if you arrived at the Sally port, the Rock Hill
22 Police Department at 2:30 that means you left the Anderson
23 Road area around 2:25.

24 A. That sounds reasonable.

25 Q. And of course you indicated you know it would take --

1 How long would you indicate it would take to place somebody
2 under arrest?

3 A. Initially place them under arrest that -- you know, a
4 minute or two.

5 Q. Well -

6 A. I was trying -

7 Q. Place him into handcuffs?

8 A. What we were trying to do I was trying to have a
9 conversation with him in that time and due to his alcohol
10 level he was not able to care on a conversation.

11 Q. But placing somebody under arrest includes such
12 things as placing them in handcuffs?

13 A. That's correct.

14 Q. You read them their rights. Correct?

15 A. Uh-huh.

16 Q. You read them their rights. Correct?

17 A. Uh-huh.

18 Q. Did you read him his rights?

19 A. At that point I cannot recall whether I read them or
20 not.

21 Q. That's not an important detail to you?

22 A. When we interrogate we reads the rights at that
23 point.

24 Q. And then you place them into -

25 A. And when he was brought into the breathalyser room I

OFFICER KENNETH TALLMADGE: CROSS BY MR. SULLIVAN

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1 know his implied consent rights were read because I got a
2 copy of them.

3 Q. So you indicated that process takes a couple of
4 minutes basically?

5 A. Yes.

6 Q. All right. So if that process takes a couple minutes
7 it would be fair to say to say that your first encountered
8 Mr. Edmonds at approximate 2:20, maybe even 2:22, 2:23?

9 A. I think it was closer to Two o'clock but the exact
10 time I'm not exactly sure.

11 Q. Okay. And according to the video that was take from
12 your car, that video that's been placed into evidence, ---

13 A. Uh-huh.

14 Q. --- you concluded the chase, you called off the chase
15 at 1:29. Correct?

16 A. I lost sight, I was still trying to locate the
17 vehicle.

18 Q. Well I believe you lost sight at 1:27.

19 A. Uh-huh.

20 Q. But you concluded, you called off the chase at 1:29?

21 A. As far as chasing the vehicle but I'm still trying to
22 locate the vehicle.

23 Q. But you lost sight the 1:27?

24 A. Yeah that sounds right.

25 Q. So basically that gives you about fifty-eight minutes

1 from the time you lost sight of that car from the time that
2 you first encountered Mr. Edmonds. Correct?

3 A. I believe that it was about Ten until that they --
4 Officer Spencer located him. About ten till 2:00, about
5 1:50.

6 Q. So twenty-five minutes basically from the time that
7 you lost sight of that vehicle until the time that law
8 enforcement encountered Gervais Edmonds?

9 A. That sounds reasonable. There was movement in the
10 woods so it probably took maybe five, ten minutes for that
11 person to come out of the woods, the defendant.

12 Q. So that's twenty-five minutes you don't know what the
13 driver of that vehicle is doing?

14 A. I would imagine he was trying to find a way out of
15 the woods.

16 Q. But you I don't know. You don't know. Right?
17 Correct?

18 A. Well I have evidence that what I feel is right but
19 inconclusive I have -- I'm not sure.

20 Q. You weren't with that driver --

21 A. I was not with that driver.

22 Q. --- at 1:27 am --

23 A. No I wasn't.

24 Q. --- until according to what you Officer Spencer
25 encountered him at 2:47?

OFFICER KENNETH TALLMADGE: CROSS BY MR. SULLIVAN

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1 A. No I was not with him. I did not have sight.

2 Q. Excuse me, 1:50. So you don't know during that time
3 frame what the driver of that car was doing.

4 A. I was not with him no.

5 Q. All you have is suspicion?

6 A. Suspicion yes, a high suspicion.

7 Q. You don't know what the other people in car were
8 doing?

9 A. I did not see anybody when I put my spotlight in that
10 vehicle but him.

11 Q. You don't know what Gervais Edmonds was doing in that
12 time frame?

13 A. No.

14 Q. You don't know how many times the key to that car
15 passed hands within twenty-five minutes do you?

16 A. No.

17 Q. In fact you don't know anything about that twenty-
18 five minutes?

19 A. I know we were looking for him in that twenty-five
20 minutes.

21 Q. But other than the fact that you were looking for him
22 and you had suspicions as to what he was doing you have
23 nothing to tell this jury about what happened in that
24 window of twenty-five minutes?

25 A. In that twenty-five minutes no.

1 Q. The only thing that you know that happened within
2 that twenty-five minutes is that the car was found on
3 Greenbrier Avenue. Correct?

4 A. That's correct.

5 Q. A lot of things can happen in twenty-five minutes
6 can't they?

7 A. Yes. It depends uh-huh.

8 Q. I want to talk to you for just a minute about your
9 identification of this driver of the car.

10 A. All right.

11 Q. Okay. You testified that as the car was turning onto
12 Mount Gallant that's when you saw the driver's face.
13 Correct?

14 A. No. When he turned onto Mount Gallant and actually
15 started to slow - when I put the spotlight that's when we
16 were looking eye to eye he was in the rearview mirror
17 looking at me and I was looking at him.

18 Q. And the rearview mirror is where you identified him?

19 A. Yes.

20 Q. Okay. You indicated you prepared the case summary
21 for this case. Correct?

22 A. That's correct.

23 Q. You reviewed the case sum before coming into court
24 correct?

25 A. Yes.

OFFICER KENNETH TALLMADGE: CROSS BY MR. SULLIVAN

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1 Q. And you agree that it's important to be accurate when
2 you prepare these case summaries. Correct?

3 A. Yes.

4 Q. Are aware that in your case summary you put that you
5 identified the driver's face in the driver's side mirror?

6 A. Yes. That's what I just -- I thought I just --
7 that's what --

8 Q. That's not what you just testified to. What you just
9 testified to was that you identified the driver through the
10 driver's rearview mirror.

11 A. Well maybe I misunderstood you. It was the left hand
12 side, the mirror is where I put my spotlight, that's where
13 I saw him, not the overhead rearview mirror. I might have
14 misunderstood you.

15 Q. Okay.

16 A. And I'd have to look report again but I'm...

17 Q. Well you remember what happened that night.

18 A. Yeah. I mean I'm a hundred percent sure it was in
19 the left -

20 Q. You're the one responsibility for filling out this
21 paperwork?

22 A. Absolutely. Absolutely.

23 Q. This is evidence in the case?

24 A. Uh-huh.

25 Q. Evidence that gets presented to the jury?

1 A. That's right.

2 Q. And this incident report, or in the case summary you
3 state that you identified him in the driver's side mirror.
4 Correct?

5 A. That is right.

6 Q. Your testimony today ---

7 A. Uh-huh.

8 Q. --- even though you initially testified it was in the
9 rearview mirror, your testimony now is that it was actually
10 the driver's side mirror. Correct?

11 A. Either I missed worded it, I meant when I say rear-
12 view I meant the driver's side left mirror is the mirror I
13 saw him in.

14 Q. But that's your phraseology.

15 A. Uh-huh.

16 Q. Okay. It's your phraseology that you put in this
17 incident report. Right?

18 A. Uh-huh. I typed the incident report.

19 Q. Okay.

20 A. Yeah.

21 Q. Are you aware in the incident report you indicate
22 that you identified the driver in the rearview mirror?

23 A. No I wasn't aware of that.

24 Q. You'd agree that that's wholly inconsistent with what
25 you put in the incident report?

OFFICER KENNETH TALLMADGE: CROSS BY MR. SULLIVAN

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1 MS. DESCH: Your Honor, I'm going to ask if he's
2 going to throw inconsistencies out there that he allow the
3 witness to look at the inconsistencies and answer it that
4 way.

5 THE COURT: I think he --

6 If you are going talk to him about something you are
7 looking at I think he has the right to be looking at it
8 too.

9 MR. SULLIVAN: Your Honor, may I approach the
10 witness?

11 THE COURT: Yes, sir.

12 BY MR. SULLIVAN:

13 Q. Mr. Tallmadge, could you please identify that record
14 for the court?

15 A. Yes. I did type in here which must have a typing
16 error of rearview mirror but it was his left mirror.

17 Q. That's a report that you prepared. Correct?

18 A. Yes.

19 Q. And that's your name down at the bottom of the page?

20 A. Yes, uh-huh.

21 Q. So its your testimony today that that's just a typo?

22 A. That is a typo.

23 Q. Okay. But it's your phraseology, it's your testimony
24 today that it was the side view mirror?

25 A. It's a side view left mirror.

1 Q. Okay. I'd like to walk you through the video for
2 just a minute if you don't mind. Okay.

3 MR. SULLIVAN: May I approach the witness, Your
4 Honor?

5 THE COURT: Yes, sir.

6 Q. I'm showing you again a copy of the incident report
7 that you prepared in this case.

8 A. Uh-huh.

9 Q. You testified earlier that Officer Spencer arrested
10 Gervais.

11 A. Officer Green and Officer Spence were together yes.

12 Q. At 1:50 p.m.

13 A. Approximately 1:50 p.m.

14 Q. Could you please read - I know there is box marked on
15 that incident report the time of arrest. Could you please
16 read that to the jury.

17 A. Time of arrest was 2:26.

18 Q. And could you please read the time of the dispatch to
19 the jury?

20 A. 1:24 a.m.

21 Q. So that's approximately an hour from the time that
22 you were first dispatched from the time you first initiated
23 this?

24 A. That's correct.

25 Q. Until Gervais Edmonds was arrested?

OFFICER KENNETH TALLMADGE: CROSS BY MR. SULLIVAN

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1 A. That's correct.

2 Q. So it's not twenty-five minutes. Correct?

3 A. He was detained. He was detained by Officer Spencer
4 until I made a positive identification and such yes.

5 Q. Mr. Tallmadge, again, your testimony today is that
6 you were able to positively identify the driver of that
7 vehicle?

8 A. Correct.

9 Q. And you were able to positively identify him despite
10 the fact that it was dark outside?

11 A. Correct.

12 (VIDEO PUBLISHED TO THE JURY.)

13 Q. I'd like for you - I know we got to fast forward,
14 we'll just play through to identify exactly the point where
15 you were able to identify him as being the driver.

16 A. As soon as you get me over to the left and I put my
17 spotlight right there.

18 Q. Okay. That's 1:24, 45, 47?

19 A. Correct.

20 Q. This video is recorded by your in car camera.
21 Correct?

22 A. That's correct.

23 Q. So what we see on the video is what you saw that day?

24 A. That's correct.

25 Q. The same thing you saw on November 2nd?

1 A. Correct.

2 Q. I don't know about you but I can't see the driver's
3 face from this side.

4 THE COURT: Wait, wait, wait... That's not a proper
5 question.

6 Q. You can't see the driver face in that video today can
7 you?

8 A. In the video at that angle my camera is mounted over
9 here. I sit over to the left of that so I do have - it's a
10 different angle from that. But no doubt in my mind I sat
11 there and looked at him in the mirror, that's why I put the
12 light on him because it was dark.

13 Q. So it's your testimony that the camera sees something
14 different than what you see?

15 A. No. I said at a different angle correct.

16 Q. Well if we can't see the drivers face on this
17 picture, on this video which was take from your car -

18 A. If you - I don't know whether you could or not but if
19 you blew it and enhanced it perhaps you could.

20 Q. Would you like to take a step down in front of the
21 witness chair and kind of --

22 A. I'm saying that if you blew it up and enhanced it,
23 the quality of it and blew it up perhaps you could. But I
24 know for a fact that night no doubt whatsoever we looked
25 eye to eye.

OFFICER KENNETH TALLMADGE: CROSS BY MR. SULLIVAN

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1 Q. No doubt?

2 A. No doubt eye to eye. Its one of those things you
3 don't forget.

4 Q. You remember all the cases you've been involved in?

5 A. When it's a pursuit yeah.

6 Q. You do?

7 A. Pretty well. Every little detail no but if I look at
8 somebody I know when I look at somebody yes.

9 Q. According to your incident report Officer Green was
10 the one who actually detained Mr. Edmonds.

11 A. Officer Green and Officer Spencer.

12 Q. They detained him based upon the description that you
13 provided?

14 A. Yes.

15 Q. And that description was based on what you observed
16 as you were chasing the car down Mount Gallant Road?

17 A. Yes.

18 Q. And that description is based on what you supposedly
19 saw through the driver side window?

20 A. Yes.

21 Q. The only description was that was every in the case
22 file was that of a black male driving a black colored
23 sedan; is that right?

24 A. Uh-huh.

25 Q. That's your description?

1 A. When I - When they were - had him in the wood line
2 they could hear him in the wood line. What exactly I said
3 that night if I had called out his height and weight I do
4 not recall at this time but normally I do.

5 Q. Would you would admit that that would be -

6 A. But sitting down I probably wouldn't have called his
7 height because I wouldn't know his height but I know his
8 face.

9 Q. You would agree that had you a called out his height
10 we hear that on the video?

11 A. Not if it was during when they were looking for him
12 in the wood line after the camera was not on.

13 Q. So you would provide a description to them several
14 minutes after the fact when they were trying to detail him.
15 You wouldn't provide a description -

16 A. Well at the time we're looking for the vehicle with
17 him in it.

18 Q. Would you submit that a black male driving a black
19 color sedan is a pretty darn description?

20 A. At the time I said black male or dark colored guy.
21 But yes. Yeah that's the only description I had at that
22 time. I mean I couldn't call out the characteristics of
23 his face you know at that time..

24 Q. Well you would agree that a black male driving a
25 black sedan could describe many people living in Rock Hill?

OFFICER KENNETH TALLMADGE: CROSS BY MR. SULLIVAN

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1 A. Well the license tag is called out as well.

2 Q. But the license plate tag number has nothing to do
3 with what somebody looks like?

4 A. Not his physical description no.

5 Q. At no point on this video, at no point in any
6 discovery I've been provided do you ever provide
7 Mr. Edmonds' hair style?

8 A. His air style? Not that I recall. I mean --

9 Q. You never provide the age of the person driving the
10 car?

11 A. Whether I called that out afterwards I usually do.
12 But can I say a year ago I did call out his exactly -- I
13 normally do. I don't know whether I did or not that night.

14 Q. Okay. So you remember, your testimony is you
15 remember the face of the person -- I think you testified
16 you remembered everybody face that all the case you were
17 involved in?

18 A. No and that's twisting my words around. What I said
19 is if I look at somebody eye to eye on certain cases,
20 certain ones especially ones like this where there is a
21 pursuit or something like that and I've looked at somebody
22 and they ran from me, yes I do remember people's faces. I
23 don't remember everybody's face I dealt with because I
24 dealt with thousands of cases.

25 Q. But you don't such a detail as whether or not you

1 called out his description. Correct?

2 A. Well I know there was a description. What exactly I
3 said his description was that night I'm not sure.

4 Q. You never describe what type of clothing the driver
5 of that car was wearing either did you?

6 A. I'm not sure whether I did or not. Because I didn't
7 see -- I could see his head shot from the car but I didn't
8 get a very good visual of his clothing.

9 Q. You never provided dispatch with any of these
10 details?

11 A. Not - Probably not a clothing description because I
12 only remember seeing his face.

13 Q. Apparently from this video you didn't provide any
14 description of height.

15 A. He was driving the car. I couldn't.

16 Q. But at that point the driver could have been six feet
17 tall. Right?

18 A. Uh-huh.

19 Q. The driver could have six feet five?

20 A. Uh-huh.

21 Q. The drive could have been five feet five?

22 A. That's true.

23 Q. The driver could have weighed a hundred and fifty
24 pounds?

25 A. He could have but...

OFFICER KENNETH TALLMADGE: CROSS BY MR. SULLIVAN

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1 Q. Driver could have weighed two hundred and fifty
2 pounds?

3 A. Yeah.

4 Q. The only thing Officer Green and Officer Spencer knew
5 that they were looking for was a black male driving a black
6 sedan? Or, excuse me, a dark colored sedan.

7 Q. Coming from that area yes where the vehicle was
8 found?

9 Q. At no point did you ever see Gervais Edmonds get out
10 of this car did you?

11 A. No.

12 Q. In fact you never saw anybody get out of the car?

13 A. I didn't see anybody get out car no.

14 Q. You lost sight of car?

15 A. That's correct.

16 Q. And it was Officer Smothers, not you, who actually
17 located the car on Greenbrier Avenue?

18 A. That's correct.

19 MR. SULLIVAN: The Court's indulgence, Your Honor.

20 (PAUSE.)

21 Q. Your testimony today is that Officer Green detained
22 Mr. Edmonds at 1:50. Correct?

23 A. I said approximately that time. I'm not sure if it
24 was documented at that exact time but it was around 1:50.

25 Q. But you didn't transport him until around 2:20?

1 A. That's correct.

2 Q. And you testified earlier that the distance was
3 approximately fifty yards from the place where the car was
4 found at Greenbrier until where he was located?

5 A. From the wood line.

6 Q. Okay.

7 A. From his car to the wood line was about fifty yards.

8 Q. How far from the wood line?

9 A. The wood line might have been another fifty yards to
10 get through it. It was really thick.

11 Q. So a hundred yards?

12 A. Yes approximately.

13 Q. So basically it was a hundred yards from where the
14 car was found, excuse me, from where Mr. Edmonds was first
15 detained ---

16 A. Uh-huh.

17 Q. --- to your car?

18 A. To my car and the suspect car, the defendant's car.

19 Q. So according to you its twice the length of this
20 courtroom the distance is fifty yards.

21 A. Near about's, uh-huh.

22 Q. So that's again thirty-five minutes?

23 A. Uh-huh.

24 Q. From the time that he was detained until the time he
25 was - until the time you transported him to the sally port?

OFFICER KENNETY TALLMADGE: CROSS BY MR. SULLIVAN
REDIRECT BY MS. DESCH

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1 A. That's right.

2 Q. And it was a hundred yards?

3 A. That's correct.

4 Q. You testified it takes about two minutes to place
5 somebody in handcuffs, read them their rights, do all the
6 things you do in order to place somebody under arrest.
7 Correct?

8 A. Uh-huh?

9 Q. Then why would it take so long to get him a hundred
10 yards, why did it take so long to transport him if it's
11 only a hundreds away?

12 A. During that time that's when I had stated that's when
13 we were doing inventory, we were looking over the car, we
14 were waiting on the tow truck.

15 Q. Was he placed in the car at this point?

16 A. Yes. He was in the back of my car the entire time.

17 MR. SULLIVAN: No further questions, Your Honor, .

18 THE COURT: Redirect?

19 MS. DESCH: The Court's indulgence.

20 THE COURT: All right.

21 REDIRECT EXAMINATION

22 OFFICER KENNETH TALLMADGE BY MS. DESCH.

23 Q. Officer Tallmadge, are you familiar with what
24 CAD sheets are?

25 A. I am.

1 Q. Could you describe to the jury what a CAD sheet is?

2 A. A CAD sheet is basically similar to when she documents
3 what's being said.

4 MR. SULLIVAN: Objection. Outside the rheum of cross
5 examination, Your Honor.

6 A. Okay.

7 THE COURT: Wait, wait.

8 I sustain the objection.

9 MS. DESCH: Your Honor, may we approach?

10 THE COURT: Yes.

11 (BENCH CONFERENCE OFF THE RECORD AT 04:54 P.M.)

12 THE COURT: Let me let the jury go to the jury room
13 just a minute.

14 (THE JURY EXITS THE COURTROOM AT 04:55 P.M.)

15 THE COURT: The objection the defense was from -
16 this was not an item that was gone into in cross and I am
17 told from the bench that the CAD sheet has to do with times.
18 Times were certainly very ask how fast I have explored by
19 counsel for defense. So I believe that in fact what I'm told
20 is true that the CAD sheets deal with times then that
21 objection would be over ruled.

22 Any other objection?

23 MR. BARROWCLOUGH: We would like to like took a look
24 at it at this time.

25 MS. DESCH: Your Honor, may it please the court. Since

OFFICER KEN TALLMADGE: REDIRECT BY MS. DESCH - IN CAMERA

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1 neither have any idea what that actually means could we
2 proffer testimony outside the jury real quickly.

3 THE COURT: Yes.

4 REDIRECT EXAMINATION IN CAMERA

5 OFFICER KENNETH TALLMADGE BY MS. DESCH:

6 Q. Officer Tallmadge, what is that in your hand? Could
7 you describe that for record?

8 A. Yes. This is our CAD operations report which is
9 a documented report of verbal transmission over the radio.

10 Q. Is that everybody that's transmitting to all
11 the officers and dispatch?

12 A. Yes..

13 Q. And is the dispatch recording the CAD sheets?

14 A. Yes it is dispatch recording the time sheets. And it
15 has the dispatch operator on these as well.

16 Q. And if you could, you have a pen in your hand, if
17 you could as you are describing to me what pages are mark
18 them one, two, three, four respectively so that the record
19 will know which one you're referring to.

20 Beginning with that first page can you tell me
21 what that is?

22 A. On the first page this is the last - it shows the
23 last verbal transmission that they had was stating at 2:02
24 that the wrecker was in route.

25 Q. So at 2:02 the tow truck has picked up the Nissan

1 Altima and its in route to wherever it's going?

2 A. It says its 17. That just means that they're coming
3 to me, they are in route to me.

4 Q. Okay. So 17 is the code?

5 A. That's a ten code yes.

6 Q. A ten code over the radio that says wreck is on their
7 way to you?

8 A. In route to me yes.

9 Q. At 2:00 a.m.; 2:02 a.m.?

10 A. 2:02 a.m. correct.

11 Q. Now there is - Is there anywhere on those sheets of
12 paper that show you when the defendant was found?

13 A. It does not have the exact time. Normally it is but
14 I do not see it on here. It just has the time where they
15 heard movement in the woods.

16 Q. And what's the time that they heard movement in the
17 woods?

18 A. This one, this is probably in here where it says big
19 field south of parking lot which would be 1:48 a.m.

20 Q. So they hear movement in the woods at 1:48?

21 A. Heard movement at 1:40 and eight minutes later it
22 just says big field south of parking lot which was where he
23 was detained at.

24 Q. Now on there at some point there is an
25 Innsbrook address listed on one of those pages. Do you

OFFICER KENNETH TALLMADGE: RE CROSS BY MR. SULLIVAN - IN CAMERA -95-

1 know what that's in reference to?

2 A. Yes I do. Innsbrook was in route - was in reference
3 to the defendant's spouse that is the residence that was
4 listed on the vehicle regulation. That is on page one
5 571 Innsbrook.

6 Q. Does that mean one of the officers around went by
7 that house?

8 A. We didn't make it over there - we were in roughly
9 until they said that he had movement in the woods.

10 Q. Is Innsbrook located nearby?

11 A. Innsbrook would probably be close to 3 to 4 minutes
12 away. Probably three or four miles.

13 MS. DESCH: That's the proffer testimony. The State
14 has nothing else.

15 Please answer any questions Mr. Barrowclough or
16 Mr. Sullivan may have.

17 RE CROSS EXAMINATION - IN CAMERA

18 OFFICER KENNETH TALLMADGE BY MR. SULLIVAN:

19 Q. May I see it?

20 (WITNESS HANDS DOCUMENT TO MR. SULLIVAN.)

21 Q. So you indicated that - Which one of these sheets
22 indicates what time the car was towed?

23 A. This right here where it says Interstate 17 that's
24 means wrecker is in route.

25 Q. And that's at what time?

1 A. 2:02.

2 Q. Okay. And then you indicated that he was arrested?

3 A. I -

4 Q. There's nothing in here that indicates what time he
5 was detained.

6 A. I can't say exactly but it says big field parking
7 lot. That's basically - it doesn't say it's spelled out but
8 I know that's what it is.

9 Q. That's what it is being what, that's what time he was
10 arrested?

11 A. That's where he was located. It just says field big
12 parking lot. It probably should have actually said 67
13 which means or detained at that point.

14 Q. All right?

15 A. But sometimes -

16 Q. And that's at 1:48?

17 A. 1:48.

18 Q. Okay.

19 MR. SULLIVAN: Thank you Your Honor.

20 The Court's indulgence.

21 Q. On Page One of the CAD report, that's where you said
22 Interstate is 17.

23 A. Uh-huh.

24 Q. And it says 2:02. And you indicate that was the time
25 and that it was towed. Correct?

OFFICER KENNETH TALLMADGE: RECROSS BY MR. SULLIVAN - IN CAMERA -97-

1 A. No that means they are in route to the area where the
2 abandoned vehicle was Greenbrier.

3 Q. So at 2:02 they were simply in route. They had not
4 towed the vehicle yet?

5 A. Had not towed the vehicle yet.

6 Q. But yet you have a tow slip here that indicates that
7 the vehicle was towed at 1:52?

8 A. That is at 1:52 is when we started writing filling
9 out the tow slip for them.

10 Q. Well it says date towed, date and time towed. Why
11 would you fill it out prior to when the car was towed?

12 A. Because it takes about ten minutes to have that
13 filled out and it takes about ten minutes for them to get
14 there that way we normally have it approximate at the
15 same time.

16 Q. So really the 1:52 time is what you are saying
17 doesn't mean anything?

18 A. It really doesn't. The 1:52 is when we started
19 filling out the paper work. I mean my watch could have
20 been ten minutes off. I mean, you know, it's within ten
21 minutes.

22 MR. SULLIVAN: No further questions, Your Honor.

23 Thank you.

24 THE COURT: All right. Any objection to him
25 testifying from the CAD reports.

1 MR. SULLIVAN: Your Honor, we would object on
2 basically two different basis, Your Honor, the fact that
3 we weren't provided this initially in discovery. The
4 second basis would be that at this point he's basically
5 speculating. It says Interstate 17. He doesn't really
6 know if that's what time he was arrested or what time he is
7 detained so basically he's speculating.

8 A. No. I know for a fact Interstate 17.

9 THE COURT: No. Wait, wait. You're not in this
10 discussion.

11 A. I'm sorry.

12 THE COURT: I don't mean to be rude but you are not.

13 Well my main concern - let's go one at a time. It
14 wasn't provided in discovery.

15 MS. DESCH: Your right Your Honor, and I didn't get
16 it either to provide to discover because I didn't realize
17 that there would be such a focus on the time frame to rebut
18 it so its rebuttal. It wouldn't be Brady as far as our
19 presentation in case in chief. I'm just kind of answering
20 what defense brought up. They opened the door wide and
21 want the ability to just open that door wide and say it was
22 an hour that he was in the wood which is not true.

23 THE COURT: It's being used in rebuttal, it's not
24 used in the case in chief. I don't believe Rule Five, it's
25 not exculpatory I don't believe or we wouldn't be fighting

OFFICER KENNETH TALLMADGE: REDIRECT BY MS. DESCH

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1 it so hard. And I don't know that it would fall under
2 Brady or, so I'm going to allow it in based on the fact
3 that it's being offered to rebut evidence that was an issue
4 that was perhaps not injected into the case by the defense
5 but certainly pursued by the defense. All right. Anything
6 other - Have we ruled on everything now?

7 MR. SULLIVAN: No additional objections, Your Honor,

8 THE COURT: Bring in the jury.

9 (THE JURY RETURNS TO THE COURTROOM AT 05:10 PM.)

10 MS. DESCH: May it please the Court, Your Honor.

11 REDIRECT EXAMINATION

12 OFFICER TALLMADGE BY MS. DESCH:

13 Q. Officer Tallmadge, right before the jury was excused
14 I think you were explaining what a CAD report was. Could
15 you reexplain that to the jury please?

16 A. Yes. A CAD report is that is our dispatch
17 documentation for all verbal transmissions on the radio.
18 Those are put into a word form.

19 Q. And is this the communication that's going on between
20 the officers and dispatch while you were talking to each
21 other on road?

22 A. That is correct.

23 Q. So this would be a report of the time frame that
24 defense brought out on cross examination. Correct?

25 A. Correct.

OFFICER KENNETH TALLMADGE: REDIRECT BY MS. DESCH

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1 Q. So would - And do you remember off hand when movement
2 was first initiated when you an officer heard movement in
3 the wood area?

4 A. I believe it was around 1:40.

5 Q. And is that information you obtained by looking at
6 the CAD?

7 A. That's correct.

8 Q. I'm showing you what's been marked for identification
9 as State's Exhibit Three. Is that the CAD report that
10 we're referring to?

11 A. Yes it is. And it was at 1:40 a.m. There was
12 documented where an officer heard movement behind the
13 houses in that section.

14 Q. So from the point where your car camera turned off at
15 1:29 or 1:30, movement was heard in the woods ten minutes
16 later at 1:40 am?

17 A. That's correct.

18 Q. And then does it mark on that CAD sheet anywhere
19 where the defendant was found or Mr. Edmonds was found?

20 A. At 1:48 approximately eight minutes later there was -
21 there is a an indication here that has the location south
22 of the parking lot and that's where he was located was at
23 1:48 a.m.

24 Q. So about ten minutes from the point where your camera
25 stops and you are looking for the defendant to where there

OFFICER KENNETH TALLMADGE: REDIRECT BY MS. DESCH

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1 was movement heard in the wood line?

2 A. That's correct.

3 Q. And then an additional eight minutes when the
4 defendant was found?

5 A. Correct.

6 Q. So it's not thirty-five or forty minutes that the
7 defense implied, it was in fact more like the original
8 twenty-five minutes?

9 A. Correct.

10 Q. And what were you doing in those twenty-five minutes?

11 A. In that twenty-five minutes when we were looking for
12 - I actually started towards another address where we
13 thought the vehicle had taken off to until it was reported
14 there was movement and when there was movement we came back
15 to that direction and tried to help surround the area where
16 the wood
17 line is.

18 Q. Do you recall what addresses you were heading to?

19 A. I was heading to 571 Innsbrook Commons.

20 Q. Why were you going to that address?

21 A. That is where the vehicle was registered to. When I
22 had called out the tag originally that's the address it
23 came back to and it was matched the description of the same
24 Nissan of Ms. Spratt the defendants -

25 MR. SULLIVAN: Objection. There has been no - there

1 has been no foundation concerning as to what he's getting
2 ready to say.

3 THE COURT: I sustain the objection.

4 Let's move onto something.

5 BY MS. DESCH:

6 Q. Is that also an addresses that's linked to Gervais
7 Edmonds?

8 A. Correct.

9 Q. So the defendant lived in the same place that the car
10 is registered to?

11 A. Correct.

12 Q. Now could you also indicate by looking at one of
13 those pages when the tow truck driver was in route to you?
14 Is that listed?

15 A. From the time the defendant Mr. Edmonds was detained
16 it was at 2:02 a.m. is when it was verified that the tow
17 truck was in route. Interstate Towing, Towing was in route
18 to my location.

19 Q. Does dispatch help you get a tow driver out there?

20 A. We call them and then they usually respond two or
21 three minutes later and then that's when they - this was
22 documented that they responded back about two to three
23 minutes later at 2:02. The call the towing companies for
24 us and then verify that they are coming and let us know
25 that they are in route and who it is.

OFFICER KENNETH TALLMADGE: REDIRECT BY MS. DESCH
RECROSS BY MR. SULLIVAN

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1 Q. So you've detained Mr. Edmonds around 1:48, tow
2 trucks on the way at 2:02 a.m. What are you doing in that
3 fourteen minutes?

4 A. It takes me relatively about five to ten minutes,
5 normally about ten minutes to fill out the tow slip for the
6 tow truck driver. I get that paper work ready at that time
7 so he'll have it which includes the inventory and such.

8 Q. So what are you doing with Mr. Edmonds when you found
9 him around 1:48?

10 A. He was identified, arrested he was placed in the back
11 of the Vehicle 83 my patrol vehicle.

12 Q. So he's put in your car around 1:48, 1:50 and then
13 you are doing the inventory and filling out paper work?

14 A. That's correct.

15 Q. Just for ease of the record, I'd like to show you two
16 maps. The two maps are - Do you recognize those two maps?

17 A. Yes I do. These are the two maps that we just read
18 on overhead earlier and this is the route that the vehicle
19 traveled and was located.

20 Q. And imagines on those two pieces of paper accurately
21 reflect what you used to show the jury the route that you
22 took on 11/2/08?

23 A. That's the exact route. It has the wood line and
24 everything uh-huh.

25 MS. DESCH: Your Honor, the State would like to move

OFFICER KENNETH TALLMADGE: RECROSS BY MR. SULLIVAN

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1 those two pieces of paper into evidence, to help the jury a
2 little bit of what we saw in the courtroom.

3 MR. SULLIVAN: Without objection, Your Honor,

4 THE COURT: In without objection.

5 (WHEREUPON: STATE'S EXHIBIT NUMBER THREE IDENTIFIED
6 AND MARKED, RECEIVED INTO EVIDENCE.)

7 MS. DESCH: Nothing further from the State, Your
8 Honor.

9 THE COURT: Cross.

10 RECROSS EXAMINATION

11 OFFICER KENNETH TALLMADGE BY MR. SULLIVAN:

12 Q. Mr. Tallmadge.

13 A. Yes, sir.

14 Q. You are reading from a CAD report that you brought
15 into court today. Correct?

16 A. That's correct. Well - yes that was a copy of the -

17 Q. That's part of your case file? Correct?

18 A. Correct.

19 Q. This case happened over a year ago?

20 A. That's correct.

21 Q. And you're are just now - you never provided that to
22 Solicitor's office prior to today's date did you?

23 A. No.

24 Q. So you held that in your possession for over a year.
25 Correct?

OFFICER KENNETH TALLMADGE: RECROSS BY MR. SULLIVAN

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1 A. It was provided to me. I did not hold it.

2 Q. But you didn't bring it -

3 A. I didn't.

4 Q. You never turned it over to the Solicitor office?

5 A. No it was not turned in. Right.

6 Q. And you testified --

7 May I approach the witness, Your Honor?

8 THE COURT: Yes.

9 Q. You testified according to this CAD report ---

10 A. Uh-huh.

11 Q. --- what you say on November 2nd at 1:48 a.m. you are
12 saying that is at the point when Officer Green detained
13 Mr. Edmonds?

14 A. That location on that CAD report is the exact
15 location where he was detained.

16 Q. That's the location where he was detained but it
17 isn't --

18 A. Uh-huh. They've got - it's only about four words
19 right there. It just had the location, it doesn't have any
20 additional.

21 Q. It says big field south parking lot?

22 A. Yes that's where he was located.

23 Q. But there is nothing in here which actually said he
24 was detained. Correct?.

25 A. They -

1 Q. They are just speculating.

2 A. With the time frame yes.

3 Q. And on these CAD reports there's a certain protocol
4 as far when somebody is arrested they use certain initials.
5 Correct?

6 A. Excuse me.

7 Q. There is a code on CAD reports that when somebody is
8 arrested there is a certain code that goes in? Correct?

9 A. They put codes on this some of them. You'll see some
10 ten codes in there. Other ones are just plain talk.

11 Q. And what does ten code mean?

12 A. That is just certain codes like a traffic stop is has
13 a certain number assigned to it.

14 Q. What's the code for detaining somebody?

15 A. That would be 67.

16 Q. 67?

17 A. Uh-huh.

18 Q. But that 67 is not anywhere on this CAD report.
19 Correct?

20 A. No. Just the - but part of that you'll see on there
21 is wording, some of it has a mixture like where it says the
22 tow truck is 10:17 but other parts just have just wording
23 on there. It's a mixture of both.

24 Q. So without that code, without that ten code you can't
25 be sure that that's what time he was detained can you?

OFFICER KENNETH TALLMADGE: RECROSS BY MR. SULLIVAN

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1 A. I can only speculate.

2 Q. So you are speculating?

3 A. I'm speculating.

4 MR. SULLIVAN: No additional questions, Your Honor.

5 THE COURT: You can step down and be excused. We
6 appreciate your time. Thank you.

7 (WITNESS LEAVES WITNESS STAND.)

8 A. Thank you.

9 THE COURT: Is that it for today?

10 MS. DESCH: No other witnesses from State, Your Honor.

11 THE COURT: All right.

12 Members of jury panel the State is resting that means
13 they've presented their evidence. It's 5:20 so we're not
14 going to try to finish the case today. We'll start back at
15 9:00 in the morning. Keep in mind that you are not to
16 discuss the case, that you are not to do any outside
17 research, that you not try to make up your own mind. You
18 are not in a possession yet to do that because to make up
19 your mind or to discuss the case because you hadn't - we
20 hadn't reached that point and you hadn't heard my charge on
21 law, so I'm going to allow you to go. Come back, be here
22 at 9:00, be in that jury room where you came, just came out
23 of And the bailiff will tell you how to best get in and
24 out. He's already done that for today earlier so you know
25 how to ingress and egress to get in the building to get to

1 the jury room.

2 So anything else before the jury is dismissed?

3 MS. DESCH: Nothing from the State, Your Honor.

4 MR. SULLIVAN: Nothing from defense, Your Honor,

5 THE COURT: We'll be glad to see you all at Nine in
6 the morning. Have a pleasant evening.

7 (THE JURY EXITS THE COURTROOM AT 05:24 P.M.)

8 The Court: -----

9 MR. SULLIVAN: --- make a motion for a directed
10 verdict on the basis -- motion -- the evidence most
11 favorable to the State, the evidence is not sufficient for
12 a guilty verdict in this case.

13 THE COURT: That motion is denied. I believe there is
14 sufficient evidence from which a jury could determine that
15 Mr. Edmonds in fact was driving the automobile on that
16 evening and that he did not stop after being properly
17 signaled by law enforcement so that motion is denied.

18 MR. SULLIVAN: We would also renew our previous
19 motions.

20 THE COURT: All right. I never understand why you all
21 do that but they are denied.

22 MR. SULLIVAN: Thank you, Your Honor,

23 THE COURT: Charges the State says general usual

24 MS. DESCH: Yes, sir.

25 THE COURT: Cookie cutter charge. I will charge of

1 course absent defendant, the blue law, I will charge
2 identification, I'll use mine and not the one that was
3 handed up. Prior inconsistent statement I'm not sure,
4 there was some testimony about a typo.

5 MR. SULLIVAN: Our basis for that would be it goes to
6 the heart of the identification. The officer testified
7 that on direct examination he'd observed the defendant
8 through the rear view mirror and then on cross examination
9 he testified that he had viewed him on a side view mirror.

10 THE COURT: I'll charge and mere presence. I don't
11 know that this guy was even present at the scene. He
12 wasn't at the scene but I'll charge mere presence because
13 you asked for it. He's not merely present at the scene.
14 He -- out but I'll charge that. Anything else?

15 MR. SULLIVAN: Nothing from the defense, Your Honor,

16 THE COURT: No lesser included. So we'll be ready.
17 I likely got something at 9:15 and 9:30 but since I got to
18 leave around 12:30 I want to get this started.

19 MS. DESCH: Thank Your Honor,

20 MR. SULLIVAN: Thank you, Your Honor,

21 (COURT IN RECESS AT 05:26 P.M.)
22
23
24
25

CERTIFICATE OF REPORTER

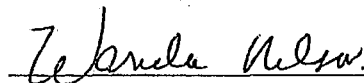
State of South Carolina)

)

County of York)

I, Wanda Nelson, Official Court Reporter for the Sixteenth Judicial Circuit for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for York County, South Carolina, on the 3rd day of November 2009.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.



Wanda Nelson, CVR
Certified Verbatim Reporter,
Official Court Reporter,
Notary Public, in and for
The State of South Carolina.

My Commission Expires: 1/21/2021

DATE: 8-5 / 2012

County: York
 Date: November 3, 2009

VOIR DIRE

Case No.: 2009-GS-46-00396 Judge: John C. Hayes, III
 Plaintiff: State of South Carolina Plaintiff's Atty: Sol. Jenny Desch
 Sol. Amy Sikora
 Defendant: Gervais Lamar Edmonds Defendant's Atty: Jonathan Sullivan
B.J. Barrowclough
 Court Reporter: Wanda Nelson

Juror #	Name	Sex	Race	Strikes			
				Court	Plaintiff	Defense	Accept
203	Scott E. Smith	M	W				X
96	Melissa Holman	F	B				X
38	Darrell Canty	M	B				X
239	Sherry D. Williams	F	B		X		
249	Patricia L. Young	F	W				X
198	Daniel J. Sippel	M	W				X
246	Susan A. Woods	F	B		X		
47	Robert Constantine	M	W			X	
72	Teresa Harrison	F	W				X
104	Martha Hudson-Lowder	F	W			X	
176	Bryan E. Rabb	M	W				X
23	Donna Bordeaux	F	W			X	
158	Ryan J. Orehek	M	W			X	
33	Kay Buechner	F	W		X		
4	Cheryl F. Alley	F	W				X
45	Cathy D. Clinton	F	W			X	
102	Suzanne Hroblak	F	W				X
224	Charles B. Tomlinson	M	W				X
222	Joseph E. Thompson	M	W		X		
213	Brenda P. Stone	F	W				X
54	Austin L. Crawford	M	W				X
177 **	William M. Rawls	M	W				X

*For the Court column, indicate who made the motion to strike the juror "for cause".
 C-Court, P-Plaintiff, D-Defense * Foreperson ** Alternate

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
COUNTY OF YORK) SIXTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,)
PLAINTIFF,)
VERSUS) TRANSCRIPT OF RECORD
GERVAIS LAVAR EDMONDS,) 2009-GS-46-396
DEFENDANT.)

NOVEMBER 4, 2009
YORK, SOUTH CAROLINA

B E F O R E:

THE HONORABLE JOHN C. HAYES III, JUDGE, AND A JURY

A P P E A R A N C E S:

FOR THE STATE:
JENNY E. DESCH, ESQ., ASSISTANT SOLICITOR

FOR THE DEFENSE:
JOHNATHAN SULLIVAN, ESQ., ASSISTANT PUBLIC DEFENDER

PHYLLIS S. BARRETT
CIRCUIT COURT REPORTER

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1 COURT IN SESSION - 9:15 A.M.

2 THE COURT: IS THE STATE READY TO PROCEED WITH ITS CLOSING
3 ARGUMENT?

4 MS. DESCH: YES, YOUR HONOR.

5 THE COURT: MR. SULLIVAN, FOR THE DEFENSE?

6 MR. SULLIVAN: YES, YOUR HONOR.

7 THE COURT: BRING IN THE JURY.

8 (WHEREUPON THE JURY ENTERED THE COURTROOM)

9 MEMBERS OF THE JURY PANEL, THE STATE HAS RESTED. IT
10 PRESENTED ITS ONLY WITNESS YESTERDAY. THE DEFENSE IS NOT
11 PRESENTING ANY EVIDENCE. AND THEREFORE, WE HAVE REACHED THAT
12 POINT IN THE TRIAL WHERE YOU WILL HEAR THEIR CLOSING ARGUMENTS,
13 MY CHARGE ON THE LAW, AND THEN YOU WILL HAVE THE CASE IN YOUR
14 HANDS FOR CONSIDERATION. MS. DESCH.

15 MS. DESCH: THANK YOU. MAY IT PLEASE THE COURT, YOUR HONOR.

16 I'M A WHITE FEMALE. I'M THIRTY-SEVEN YEARS OLD. I HAVE BROWN
17 HAIR, BROWN EYES. I'M WEARING BLACK SHOES, AND I'M FIVE-SEVEN.
18 WOULD YOU BE ABLE TO TELL THAT WITHOUT ME TELLING YOU? THAT'S
19 WHAT THE DEFENSE WANTS YOU TO THINK THE OFFICE SHOULD HAVE DONE.
20 THE DEFENSE'S WHOLE CONTENTION IS THAT THE OFFICER WAS NOT ABLE
21 TO IDENTIFY THE CORRECT PERSON DRIVING THAT CAR ON 11/2/08 BECAUSE
22 HE DIDN'T CALL OUT HEIGHT OR AGE OR CLOTHING OR THE DRIVER. IT
23 COULD HAVE BEEN A CAR DRIVING ANYWHERE FROM TWENTY-FIVE MILES
24 AN HOUR TO SEVENTY MILES AN HOUR AT 1:24 IN THE MORNING, WITH HIS
25 FACE, THEY SAY BEHIND THEM.

1 THE DEFENSE WANTS THE OFFICER TO BE ABLE TO CALL OUT HOW
2 OLD THE DRIVER IS, HOW TALL THE DRIVER HIS. AND THAT'S WHAT THEY'RE
3 BASING THE FACT THAT THEY DIDN'T GET THE RIGHT PERSON ON?

4 THE DEFENSE WANT YOU TO BELIEVE THE OFFICER COULD NOT HAVE
5 DESCRIBED THE RIGHT DRIVER BECAUSE HE WROTE THE DRIVER'S ID ON ONE
6 PAGE AND ON ANOTHER. THE DEFENSE CONTENDS THAT THE OFFICER
7 SHOULD NOT BE BELIEVED BECAUSE HE WASN'T WITH THE DEFENDANT IN
8 THE CAR OR WITH THE DEFENDANT WHEN THE DEFENDANT BAILED OUT OF
9 THE CAR AND RAN THROUGH THE WOODS.

10 USE YOUR COMMON SENSE. THAT'S WHAT YOU'RE HERE FOR. THE
11 OFFICER IS LIKE YOU AND ME, JUST LIKE ALL OF YOU. AND HE IS PAYING
12 ATTENTION TO WHAT'S GOING ON AROUND HIM FOR THE SAFETY OF THE
13 PEOPLE HE IS SWORN TO PROTECT. HE IS TRYING TO STOP A DRIVER WHO AT
14 THE POINT THAT HE TURNED ON THE BLUE LIGHT HAD JUST BEEN WEAVING
15 AND POSSIBLY UNDER THE INFLUENCE. BUT INSTEAD OF STOPPING FOR THE
16 INVESTIGATION, THE DRIVER CONTINUED TO DRIVE INTO A RESIDENTIAL
17 AREA AT POINTS GOING TWICE THE LEGAL SPEED LIMIT, THEN ABANDONED
18 HIS CAR WITH A FLAT TIRE, RUNNING THROUGH THE WOODS.

19 NOW, YOU'RE GOING TO JUDGE THE CREDIBILITY OF THE WITNESS. IN
20 THIS CASE THERE WAS ONE WITNESS. THE EVIDENCE THAT YOU HAVE IS THE
21 EVIDENCE THAT IS PUT INTO EVIDENCE FOR YOU AND WHAT COMES FROM
22 THIS CHAIR. WHAT I SAY IS NOT EVIDENCE. WHAT THE DEFENSE SAYS IS
23 NOT EVIDENCE. IT'S WHAT YOU COLLECTIVELY REMEMBER AND CAN
24 JUDGE BY LOOKING AT THE WITNESS.

1 NOW, JUDGE HIS CREDIBILITY. IT'S JUST LIKE YOU, IF YOU HAVE KIDS
2 AND YOUR KIDS TELL YOU A LIE, YOU HAVE WAYS TO FIGURE IT OUT. IF
3 YOUR COLLEAGUES, IF YOUR SPOUSE, IF YOUR FRIENDS TELL YOU LIES, YOU
4 HAVE WAYS TO FIGURE IT OUT.

5 BUT, THINK OF THAT. THINK OF WHAT YOU USE TO TELL IF SOMEONE
6 IS TELLING YOU THE TRUTH AND PUT IT IN YOUR JUDGMENT OF THAT
7 WITNESS. HE MADE EYE CONTACT WITH YOU WHEN HE TOLD YOU THINGS.
8 HE USED ACTIVE VOICE, NOT PASSIVE VOICE. HE ANSWERED QUESTIONS
9 QUICKLY. THERE WAS NO HEMMING AND HAWING. THERE WAS NO
10 LOOKING UP TO THE RIGHT OR THE LEFT, TRYING TO THINK OF THINGS. HE
11 JUST TOLD YOU WHAT HE REMEMBERS FROM NOVEMBER 2, 2008. HE HAD
12 THOROUGH EXPLANATIONS, AND HE HAD A CALM DEMEANOR.

13 NOW, THOSE ARE THINGS THAT CAN BACK-UP WHAT HE SAID. HE'S
14 DESCRIBED THE AREA AS WELL-LIGHTED. THIS WHOLE CASE IS ABOUT
15 IDENTITY. THERE'S NO QUESTION THAT THE CAR'S NOT STOPPED. YOU'VE
16 SEEN THE VIDEO. ABSOLUTELY NO QUESTION THAT THE BLUE LIGHTS ARE
17 ON AND THAT CAR FAILED TO STOP. SO, ALL YOU HAVE TO DECIDE ON IS
18 WHETHER GERVAIS EDMONDS WAS DRIVING THAT CAR.

19 SO, THINK ABOUT ALL THE THINGS THAT OFFICER TALMADGE TOLD
20 YOU. HE DESCRIBED THE AREA AS WELL-LIGHTED AT THE POINT WHERE
21 HE'S ABLE TO IDENTIFY GERVAIS IN THE DRIVER'S SEAT. WELL, IF ANY OF
22 YOU HAVE BEEN DOWN TO THAT AREA, THERE ARE STORES AND THERE'S A
23 CINEMA. THERE'S LIGHTS ALL OVER THAT PLACE.

24 THE OFFICER SAID WHILE HE'S WATCHING THE CAR DRIVE AWAY,
25 SPEED AWAY, IT HIT THE ROAD, SMOKE FLIES UP. WHEN HE SEES THE CAR,

1 THE CAR HAS A FLAT TIRE AND FRONT DAMAGE. THESE ARE THINGS THAT
2 CORROBORATE WHAT THE OFFICER OBSERVED. HE TELLS YOU THAT HE
3 SPOTLIGHTS TO ASSIST IN ID'ING HIM. YOU COULD SEE THAT ON THE VIDEO
4 THAT I SHOWED YOU. HIS WORDS ARE CORROBORATED BY THE EVIDENCE.

5 HE SAYS THERE'S ONE PERSON IN THE CAR, AND LO AND BEHOLD,
6 THERE'S ONE PERSON FOUND COMING THROUGH THE WOODED AREA AT 1:30
7 IN THE MORNING. AND LET'S NOT FORGET, THIS IS A RESIDENTIAL AREA.
8 THERE'S NO PEOPLE OUT ON THE PORCHES. IT'S 1:30 IN THE MORNING.
9 THERE'S NOT A RANDOM AMOUNT OF PEOPLE RUNNING AROUND AT 1:30 IN
10 THE MORNING.

11 THIS IS THE KEY PART OF THE VIDEO. (WHEREUPON VIDEO IS SHOWN
12 TO JURY) HE COMES OUT TO THE LEFT, SHINES HIS LIGHT RIGHT ON THAT
13 MIRROR, JUST LIKE HE SAID HE DID. THAT'S WHEN HE IDENTIFIED THE
14 DRIVER OF THE CAR.

15 NOW, KEEP IN MIND, THE ANGLE OF THE CAMERA IS IN THE RIGHT-
16 HAND SIDE OF THE CAR. HE IS ON THE LEFT-HAND SIDE. HE'S DRIVING HIS
17 PATROL CAR. HE HAS A BETTER ANGLE RIGHT INTO THAT CAR AS HE PULLS
18 AROUND, AND HE SPOT LIGHTS IT. THAT IS A GOOD IDENTIFICATION.

19 WITHOUT ME GETTING INTO THE CIRCUMSTANTIAL EVIDENCE, THAT IS
20 A GOOD IDENTIFICATION. AND WHEN YOU'RE BACK IN THE JURY ROOM, YOU
21 CAN LOOK AT THAT. YOU CAN BLOW IT UP. YOU CAN SLOW IT DOWN. THAT
22 VIDEO IS IN EVIDENCE. YOU AS A COLLECTIVE JURY CAN WATCH IT AND PUT
23 TOGETHER WHAT OFFICER TALMADGE TOLD YOU. HE HAS NO DOUBT IN HIS
24 MIND THAT GERVAIS EDMONDS, THE DEFENDANT IN THIS CASE, WAS THE
25 ONE DRIVING THAT CAR.

1 THE DEFENSE WANTS TO MAKE YOU THINK THAT HE DOES
2 THOUSANDS OF CASES, THAT HE COULDN'T POSSIBLY REMEMBER THIS ONE.
3 THINGS IN YOUR WORLDS STAND OUT TO YOU. AND A POLICE OFFICER WHO
4 HAS TO CHASE A CAR THAT HAS TO CHASE A CAR, IT IS NOT UNUSUAL THAT
5 THAT WOULD STICK OUT IN HIS MIND. THAT IS A GOOD IDENTIFICATION.

6 BUT, LET'S GO ONE STEP FURTHER. WHAT'S THE CIRCUMSTANTIAL
7 EVIDENCE IN THIS CASE? THE DEFENSE WANTS TO GO THROUGH AND BREAK
8 UP THIS TIME LINE AND MAKE IT SEEM LIKE AN HOUR IS COMPLETELY
9 UNREASONABLE, THAT IN AN HOUR THE KEYS CHANGED HANDS, THAT
10 OTHER PEOPLE CAME OUT OF THEIR HOUSE, THERE WAS SOME OTHER
11 RANDOM PERSON RUNNING THROUGH THE WOODS, THE DRIVER HAD TO
12 HAVE GOTTEN AWAY.

13 THAT'S NOT REASONABLE. LOOK AT WHAT WE HAVE HERE, THEY
14 MATCH THE DEFENDANT'S. IN THE CAR, IN THE GLOVE COMPARTMENT, THE
15 WORK ORDER, IT'S FOUND WITH THE NAME, GERVAIS EDMONDS, ON IT. HE
16 HAD WORK DONE TO THAT CAR. THE KEYS TO THE NISSAN ULTIMA ARE
17 FOUND IN HIS POCKET. A COLT .45 IS FOUND IN THAT CAR. AND HE SMELLS
18 LIKE ALCOHOL AND IS INCOHERENT AND UNABLE TO STAND, AND SLURRED
19 SPEECH, AND HE'S DRIVING RECKLESSLY. AND THE DEFENDANT IS FOUND
20 ON FOOT ON THE OTHER SIDE OF THE WOODED AREA WHERE THE CAR WAS
21 ABANDONED.

22 WITH ALL THAT EVIDENCE AND THE TESTIMONY, THERE SHOULD BE
23 NO DOUBT IN YOUR MIND THAT GERVAIS EDMONDS IS GUILTY OF FAILING
24 TO STOP FOR A BLUE LIGHT.

1 THE DEFENSE GETS TO ARGUE NEXT AND I DON'T GET TO GET BACK UP
2 AND TALK AGAIN TO YOU. WHEN YOU LISTEN TO THE DEFENSE, I WANT YOU
3 TO THINK ABOUT WHAT I WOULD SAY IF I COULD GET BACK UP.

4 THEY'RE GOING TO TALK TO YOU ABOUT THE LITTLE
5 INCONSISTENCIES IN THE POLICE REPORT. THE POLICE REPORT'S NOT
6 EVIDENCE. IT'S AN OUTLINE OF WHAT THE OFFICER WRITES, THAT THEY
7 REMEMBER WHAT THEY WILL TESTIFY TO LATER. BUT THE EVIDENCE IS
8 WHAT OFFICER TALMADGE SAYS FROM THAT CHAIR. AND IS IT ENOUGH FOR
9 TYPOS OR CHANGE OF WORDS OR MIX-UPS, IS THAT ENOUGH TO SLOW HIS
10 CREDIBILITY ALL TOGETHER? NO.

11 HE'S WORK 7:00 P.M. TO 6:00 A.M., IS OUT CHASING GERVAIS EDMONDS
12 AROUND IN THE MIDDLE OF THE NIGHT. HE HAS TO TAKE CARE OF POLICE
13 REPORTS, BOOKING REPORTS. HAS TO GET IN AND GO EVERYTHING. HE HAS
14 TO GIVE HIM MIRANDA RIGHTS. HE'S GOT TO GET HIM HANDCUFFED
15 SECURELY. HE'S GOT TO TALK TO ALL THE OFFICERS AT THE SCENE. HE HAS
16 TO GATHER ALL THAT INFORMATION. AND THEN HE HAS TO WRITE A
17 REPORT AT MAYBE 4:00 IN THE MORNING.

18 THE VIDEO SPEAKS FOR ITSELF. WHETHER HE WROTE REAR-VIEW
19 MIRROR ON ONE PAGE AND DRIVER'S SIDE MIRROR ON THE OTHER, THE
20 VIDEO SPEAKS FOR ITSELF. HE CLEARLY IDENTIFIED GERVAIS EDMONDS
21 WHEN HE PULLED AROUND AND SPOTLIGHTED THE DRIVER'S SIDE MIRROR.

22 JUDGE HAYES IS GOING TO TELL YOU ABOUT THE LAW. AND I'M
23 GOING TO GUESS THE DEFENSE IS GOING TO TELL YOU ABOUT THE LAW.
24 THEY ARE AND WILL BE CORRECT WHEN THEY SAY IT IS THE STATE'S
25 BURDEN TO PROVE THE CASE BEYOND A REASONABLE DOUBT. IT IS

1 ABSOLUTELY. IT IS ABSOLUTELY. IT'S OUR BURDEN BECAUSE PEOPLE
2 SHOULD NOT BE UNFAIRLY TRIED OR UNFAIRLY CONVICTED.

3 BUT IF YOU THINK OF OUR JOB AS CREDIBLE BELL, ONE OF THOSE
4 THAT YOU HIT WITH THE HAMMER, AND IT HAS TO HIT THE BELL ON TOP,
5 TO ASSUME THAT WE PRESENT A CASE AND GET RID OF ALL DOUBT
6 WHATSOEVER IS UNREASONABLE. THE STANDARD WE HAVE TO MEET IS
7 REASONABLE DOUBT. IN THE DEFENSE'S CASE AND ARGUMENT IN OPENING,
8 HE WENT UP AND HE SAID WITHOUT ANY HESITATION. THAT'S NO TRUE.
9 YOU DON'T HAVE TO COME TO A CONCLUSION WITHOUT ANY HESITATION.
10 THERE'S CHAIRS IN THE JURY ROOM FOR A REASON. YOU HAVE TO GO BACK
11 AND YOU DELIBERATE. THAT'S THE PURPOSE OF IT. YOU HAVE TWELVE
12 MEMORIES OF WHAT HAPPENED THAT DAY. TWELVE OF YOU ARE GOING TO
13 BE IN THE BACK WITH YOUR OWN OPINION, YOUR OWN RECOLLECTION OF
14 WHAT THE EVIDENCE WAS. THAT'S WHY YOU SIT BACK THERE AND TALK.
15 THAT'S THE PURPOSE OF IT. IT'S NOT WITHOUT ANY HESITATION. THAT'S
16 UNREASONABLE. BUT YOU MUST BE FIRMLY CONVINCED.

17 AND IN THIS CASE, THERE SHOULD BE NO ISSUE. ALL YOU HAVE TO
18 DECIDE, THERE'S NO QUESTION THAT THE CAR WAS IN YORK COUNTY. THERE
19 IS NO QUESTION THAT THE BLUE LIGHT WAS ACTIVATED. YOU COULD SEE IT
20 ON THE VIDEOTAPE. THAT RED BUTTON GOES ON WHEN THE BLUE LIGHT IS
21 ON. YOU CAN HEAR THE AIR HORN AND THE SIRENS AND THE TALKING.
22 THOSE ARE EASY ELEMENTS TO DECIDE.

23 THE ONLY THING YOU HAVE TO DECIDE IS WAS GERVAIS EDMONDS
24 DRIVING THAT CAR. AND AFTER THE TESTIMONY FROM OFFICER TALMADGE
25 AND THE CIRCUMSTANTIAL EVIDENCE, THERE SHOULD BE NO QUESTION.

1 THE ONE THING THAT YOU WILL NOT HAVE BACK IN EVIDENCE IS THE
2 CAD REPORT, THE TIME LINE. THIS WILL NOT GO BACK IN THE ROOM WITH
3 YOU. IT WAS NO ENTERED INTO EVIDENCE. THIS WAS FOR THE OFFICER TO
4 GIVE YOU A TIME LINE. YOU'RE GOING TO HAVE TO RELY ON YOUR MEMORY
5 ON THAT. 1:29, THE VIDEOTAPE ENDS. 1:40, THERE'S MOVEMENT HEARD IN
6 THE WOODS. 1:48, THERE'S SOMEONE FOUND ON THE OTHER SIDE OF THE
7 WOODS. THAT'S YOUR TIME LINE.

8 AND THE IMPORTANCE OF THE TIME LINE IS JUST TO GIVE YOU MORE
9 EVIDENCE, MORE CIRCUMSTANTIAL EVIDENCE THAT IT HAS TO BE GERVAIS
10 EDMONDS DRIVING THAT CAR. IT HAD TO BE. IT HAD TO BE GERVAIS
11 EDMONDS DRIVING THAT CAR. FIND HIM GUILTY OF FAILING TO STOP FOR A
12 BLUE LIGHT.

13 THE COURT: MR. SULLIVAN.

14 MR. SULLIVAN: MAY IT PLEASE THE COURT. YOU SAW THE VIDEO. IT
15 WAS BLOWN UP THERE ON THE BIG SCREEN, AND SHOWS POSITIVELY WHERE
16 OFFICER TALMADGE SAID THAT HE IDENTIFIED GERVAIS EDMONDS AS HIM
17 DRIVING THAT VEHICLE. THAT'S A GOOD IDENTIFICATION, ACCORDING TO
18 MS. DESCH. I DISAGREE WITH THAT, LADIES AND GENTLEMEN.

19 IN HER OPENING STATEMENT, MS. DESCH PORTRAYED THE CASE AS
20 SIMPLE, STRAIGHTFORWARD. SHE TOLD YOU ABOUT HOW OFFICER
21 TALMADGE OBSERVED A BROWN, NISSAN ULTIMA COME DOWN I-77 AND
22 MERGE ONTO DAVE LYLE BOULEVARD. SHE TOLD YOU ABOUT HOW, THAT
23 THE DRIVER WAS DRIVING ERRATICALLY, HOW HE WAS WEAVING IN AND
24 OUT OF LANES. SHE TOLD YOU ABOUT HOW HE ACTIVATED THE BLUE LIGHT

1 AND THAT THE DRIVER OF THE VEHICLE FAILED TO STOP FOR A BLUE LIGHT.
2 THAT'S IT, SHE SAID. THAT'S WHAT SHE SAID IN HER OPENING STATEMENT.
3 THE INTERESTING THING IS, SHE LEFT OUT THE VERY THING, THE VERY
4 ISSUE THAT'S IN DISPUTE IN THIS CASE, AND THAT'S THE IDENTIFICATION OF
5 THE DRIVER. SHE GLOSSED OVER THAT FACT IN HER OPENING STATEMENT.
6 SHE TOLD YOU ABOUT ALL THE FACTS THAT AREN'T IN DISPUTE HERE
7 TODAY, LADIES AND GENTLEMEN. SHE TOLD YOU ABOUT THE FACTS, THAT
8 THERE'S EVIDENCE WHICH CLEARLY SUPPORT THEM.

9 THERE'S NO DOUBT THE CAR FAILED TO STOP. YOU CAN SEE IT. I CAN
10 SEE IT. WE ALL SAW IT ON THE VIDEO. WE'RE NOT CONTESTING THE FACT
11 THAT IT HAPPENED IN YORK COUNTY. THAT'S NOT EVEN AN ISSUE THAT I
12 WOULD ASK YOU TO FOCUS ON TODAY.

13 THE ISSUE IS WHO WAS DRIVING THAT CAR. AND THE QUESTION
14 BEFORE YOU IS HAVE THEY PRESENTED SUFFICIENT EVIDENCE TO PROVE
15 BEYOND A REASONABLE DOUBT THAT GERVAIS EDMONDS WAS DRIVING
16 THAT CAR. I CONTEND THE ANSWER IS NO. THEY HAVEN'T MET THAT
17 BURDEN.

18 AGAIN, YOU'VE SEEN THE VIDEO. IT'S PREPOSTEROUS TO THINK THAT
19 THAT'S BEYOND A REASONABLE DOUBT. YOU CAN'T EVEN SEE A PERSON
20 THAT VIDEO. YOU CAN SEE A PERSON IN THAT SIDE VIEW MIRROR. YOU
21 CAN'T SEE A PERSON THAT REAR VIEW MIRROR. YET, THEY WANT TO ACT
22 LIKE THAT THE IDENTIFICATION IS CLEAR, THAT'S IT'S A GOOD
23 IDENTIFICATION ACCORDING TO THEM. THAT'S PREPOSTEROUS.

24 SHE'S TALKED ABOUT CIRCUMSTANTIAL EVIDENCE. SHE WANTS TO
25 TALK ABOUT THE KEY, WANTS TO TALK ABOUT THE FACT THAT HE WAS

1 FOUND OUT IN THIS AREA, IN CLOSE PROXIMITY, OR IN THE GENERAL
2 VICINITY OF WHERE THE CAR WAS FOUND, THAT THAT PROVES THAT HE
3 WAS THE DRIVER OF THIS CAR.

4 YOU HEARD OFFICER TALMADGE TESTIFY THAT NEITHER HE NOR ANY
5 OFFICER, NOT OFFICER GREEN, NOT OFFICER SPENCER, NOBODY EVER SAW
6 GERVAIS GET INTO THAT CAR, NOBODY EVER SAW HIM GET OUT OF THAT
7 CAR.

8 YOU HEARD TALMADGE TESTIFY THAT GERVAIS WAS NOT
9 IMMEDIATELY APPREHENDED. I KNOW WE SPENT A LOT OF TIME
10 YESTERDAY ON THE TIME LINE. THERE WAS CONFLICTING TESTIMONY IN
11 COURT ABOUT HOW MUCH TIME PASSED FROM THE TIME THAT TALMADGE
12 FIRST LEFT SIGHT OF THAT VEHICLE AT 1:27 IN THE MORNING UNTIL THE
13 TIME THAT GERVAIS WAS APPREHENDED OR ARRESTED.

14 ACCORDING TO THE INCIDENT REPORT THAT OFFICER TALMADGE
15 PREPARED HIMSELF, IN THE TIME FRAME SHORTLY AFTER THE INCIDENT
16 OCCURRED, HE WRITES GERVAIS WAS ARRESTED AT 2:26 P.M. EXCUSE ME.
17 2:26 A.M., WHICH PUTS IT ABOUT AN HOUR AFTER THE FACT. HE LOST SIGHT
18 OF THE VEHICLE, GERVAIS WAS FOUND AND ARRESTED AN HOUR LATER.
19 THAT'S WHAT HE PUT IN THE INCIDENT REPORT.

20 AND YESTERDAY HE GOT ON THE STAND HE TESTIFIED TO SOMETHING
21 WHOLLY INCONSISTENT WITH THAT. YESTERDAY HE GOT ON THE STAND
22 AND HE SAID THAT NO, HE WASN'T-- HE WAS ARRESTED AT 2:26, BUT WE
23 REALLY FOUND HIM AT 1:50.

1 NOW, HE WENT THROUGH THE CAD REPORT AND HE TALKED ABOUT
2 THE CODE TEN AND THE SIGNIFICANCE OF THAT. IF YOU'LL RECALL, CODE
3 TEN MEANS THAT A SUSPECT HAS BEEN APPREHENDED.

4 OFFICER TALMADGE SPECULATED, HE ADMITTED THAT HE WAS
5 SPECULATING BASED ON THE CAD REPORT THAT GERVAIS WAS ACTUALLY
6 APPREHENDED OR DETAINED AT 1:50 IN THE MORNING.

7 SO, REGARDLESS OF WHETHER OR NOT YOU BELIEVE THE INCIDENT
8 REPORT THAT HE PREPARED AS PART OF THE CASE, OR WHETHER OR NOT
9 YOU WANT TO BELIEVE THAT GERVAIS WAS ACTUALLY AT 1:50 AND LATER
10 ARRESTED, YOU'RE BASICALLY HAVE GOT AN HOUR AND TWENTY-FIVE
11 MINUTES. THAT'S STILL A LONG TIME. THAT'S STILL A LARGE WINDOW IN
12 WHICH THEY CAN'T ACCOUNT FOR WHAT HAPPENED IN THAT CAR, WHO WAS
13 DRIVING, WHO WAS THE PASSENGER. THEY CAN'T ACCOUNT FOR ANY OF
14 THAT. OFFICER TALMADGE CAN'T ACCOUNT FOR IT, NOR CAN ANY OF THE
15 OFFICERS.

16 ESSENTIALLY, WHAT THAT TIME FRAME ESSENTIALLY GOES TO PROVE
17 IS THREE THINGS. ONE: GERVAIS WAS THE DRIVER AND HE FLED ON FOOT;
18 THAT HE WAS FOUND EITHER TWENTY-FIVE MINUTES LATER OR AN HOUR
19 LATER. OR, IT PROVES THAT HE WAS A PASSENGER IN THE CAR. THAT BOTH
20 HE AND THE DRIVER, OR THE OTHER PASSENGER FLED THE SCENE, AND HE
21 WAS FOUND IN THE WOODS TWENTY-FIVE MINUTES LATER OR AN HOUR
22 LATER. OR LASTLY, THE THIRD THING, THAT GERVAIS WAS NOT EVEN IN
23 THIS CAR, BUT THAT HE WOULD COME BACK LATER ON TO MEET THE
24 DRIVER OF THE CAR AND PICK UP THE CAR AND THE KEYS TO THE CAR.

1 ALL THOSE THREE THINGS ARE POSSIBLE UNDER THAT TWENTY-FIVE
2 OR FIFTY-MINUTE TIME FRAME. THERE'S BEEN NO EVIDENCE PRESENTED
3 YESTERDAY OR THROUGHOUT THIS TRIAL THAT TENDS TO PROVE THAT ONE
4 OF THOSE SCENARIOS IS MORE LIKELY THAN THE OTHER. ESSENTIALLY
5 WHAT IT BOILS DOWN TO THE IDENTIFICATION OF GERVAIS BY OFFICER
6 TALMADGE. IT BOILS DOWN TO THE VIDEO.

7 THE ONLY THING THAT WOULD SUPPORT A GUILTY VERDICT IN THIS
8 CASE, IS THAT YOU BELIEVE BEYOND A REASONABLE DOUBT THAT OFFICER
9 TALMADGE IDENTIFIED HIM AS THE DRIVER OF THE VEHICLE.

10 FORTUNATELY, WE DON'T HAVE TO SPECULATE ABOUT THIS. YOU
11 SAW THE VIDEO. IT WAS TAKEN DIRECTLY FROM HIS CAR. HE TOLD YOU,
12 YES, IT WAS TAKEN FROM MY IN-CAR VIDEO, THAT'S WHAT I SAW THAT
13 NIGHT. YOU HEARD HIM TESTIFY THAT THE CAR WAS SPEEDING WHEN IT
14 CAME DOWN OFF THE INTERSTATE, THAT IT WAS WEAVING IN AND OUT OF
15 LANES, DRIVING ERRATICALLY, AT ONE POINT GOING OVER TWENTY MILES
16 PER HOUR OVER THE SPEED LIMIT.

17 IT WAS 1:20 IN THE MORNING. IT WAS COMPLETELY DARK OUTSIDE.
18 THEY WANT TO ACT LIKE IT WAS A WELL-LIT AREA, THAT MANCHESTER
19 COMMONS HAS ALL THESE LIGHTS. YOU'VE HEARD THAT THAT'S NOT
20 WHERE THE IDENTIFICATION TOOK PLACE. THE IDENTIFICATION TOOK
21 PLACE ON MT. GALLANT ROAD, WHICH IS NOT LIT. THEY WANT TO TALK
22 ABOUT HOW WELL-LIT THINGS WERE. BUT WHERE THE ARREST TOOK
23 PLACE, THERE WAS NOT A SUFFICIENT AMOUNT OF LIGHT.

24 OFFICER TALMADGE ALSO TESTIFIED THAT YES, AS A POLICE OFFICER,
25 HE WAS CONCERNED ABOUT THE SAFETY OF HIMSELF AND OTHERS. AND BY

1 VIRTUE OF SPEEDING, AND THE OFFICER DRIVING ERRATICALLY THAT
2 WOULD DIVERT HIS ATTENTION BECAUSE HE WOULDN'T BE FOCUSED ON
3 SAFETY ISSUES.

4 YOU ALSO HEARD OFFICER TALMADGE TESTIFY AT ONE POINT THAT
5 HE VIEWED THE DRIVER THROUGH THE REARVIEW MIRROR, THAT HE
6 ULTIMATELY IDENTIFIED GERVAIS EDMONDS S BEING THE DRIVER OF THAT
7 CAR IN THE REARVIEW MIRROR. THEN, UNDER CROSS EXAMINATION, HE
8 TOLD ME, HE SAID IT WAS THE SIDE VIEW MIRROR. NOW, WE SEE ON THE
9 VIDEO THAT HE FLASHED HIS SPOTLIGHT FROM THE SIDE VIEW MIRROR.
10 WHO KNOWS WHERE HE SAID HE IDENTIFIED, WHETHER OR NOT IT WAS THE
11 REARVIEW MIRROR OR THE SIDE VIEW MIRROR?

12 BUT I JUST WANTED TO TAKE YOU TO THE STATEMENT. AT ONE POINT
13 WHEN HE STOPPED THE VIDEO OFFICER TALMADGE SAID THAT'S WHERE HE
14 IDENTIFIED HIM. WELL, YOU RECALL THAT VIDEO, LADIES AND GENTLEMEN.
15 IT WAS IMPOSSIBLE TO SEE WHO WAS DRIVING. YOU COULDN'T SEE IF IT
16 WAS A BLACK MAN, IF IT WAS A WHITE MAN, IF IT WAS A MALE OR IF IT WAS
17 A FEMALE. YOU COULDN'T SEE ANYTHING. YOU'RE GOING TO HAVE THAT
18 VIDEO BACK THERE WITH YOU. I WANT YOU TO TAKE A LOOK AT THAT
19 VIDEO. THAT'S WHAT THE CASE BOILS DOWN TO, POSITIVE IDENTIFICATION
20 WHERE HE SAID HE IDENTIFIED THE DRIVER. LOOK AT IT AND YOU TELL ME
21 IF YOU CAN IDENTIFY WHO'S DRIVING THAT CAR.

22 AS YOU WILL RECALL, THE ONLY DESCRIPTION THAT WAS EVER
23 PROVIDED BY OFFICER TALMADGE TO DISPATCH AND TO THE OTHER
24 OFFICERS WAS IT WAS A BLACK MALE DRIVING A DARK SEDAN.

1 MS. DESCH SAYS WE HAVE A SUFFICIENT DESCRIPTION ON WHICH THE
2 OTHER OFFICERS ARE ABLE TO IDENTIFY THE DRIVER. AND THAT IT WOULD
3 BE IMPOSSIBLE FOR HIM TO PROVIDE ANY OTHER ADDITIONAL DETAILS
4 ABOUT WHAT THE PERSON WAS WEARING, ABOUT THEIR HAIRSTYLE, ABOUT
5 THEIR WEIGHT, ABOUT THEIR AGE, ANYTHING LIKE THAT. SHE SEEMS THAT
6 OFFICER TALMADGE WOULD NOT BE ABLE TO DO THAT WHEN HE
7 IDENTIFIED, SUPPOSEDLY IDENTIFIED THE DRIVER.

8 I CERTAINLY THINK THAT HAD HE HAVE SEEN GERVAIS EDMONDS
9 BEING THE DRIVER OF THAT AUTOMOBILE HE COULD PROVIDE A BETTER
10 DESCRIPTION ABOUT HIS HAIRSTYLE. HE HAD SHORT HAIR, HE DIDN'T HAVE
11 LONG HAIR. ABOUT HIS WEIGHT; CLEARLY, HE'S OVERWEIGHT. ABOUT HIS
12 AGE; NOT AN OLDER GENTLEMAN, A YOUNGER MALE, PERHAPS ABOUT
13 THIRTY. THOSE ARE DESCRIPTIVE FEATURES THAT HE COULD HAVE
14 PROVIDED VERY EASILY HAD HE SEEN WHAT HE SAYS HE SAW.

15 IT'S NOT A GOOD IDENTIFICATION. IT'S NOT A GOOD IDENTIFICATION.
16 THERE'S A LARGE WINDOW OF A TIMEFRAME IN WHICH A LOT OF THINGS
17 COULD HAVE HAPPENED.

18 LADIES AND GENTLEMEN, I REALLY WANT YOU TO FOCUS AND I WANT
19 YOU TO REMEMBER WHAT OFFICER TALMADGE TESTIFIED TO. I CONTEND
20 TO YOU THAT THE STATE HAS NOT PRESENTED SUFFICIENT EVIDENCE TO
21 CONVINCE YOU BEYOND A REASONABLE DOUBT THAT HE WAS DRIVING THIS
22 CAR, GIVEN THE POOR DESCRIPTION, GIVEN THE VIDEO, GIVEN THE
23 TIMEFRAME. THERE'S NO ONE WHO ACTUALLY SAW HIM GET IN OR OUT OF
24 THE CAR. AND I WOULD ASK YOU TO COME BACK AND DO THE RIGHT THING
25 AND RETURN A VERDICT OF NOT GUILTY.

1 THE COURT: MEMBERS OF THE JURY PANEL, I'M GOING TO ASK YOU
2 NOW TO GIVE ME YOUR ATTENTION, AND I AM GOING TO CHARGE YOU ON
3 THE LAW THAT YOU ARE TO APPLY TO THE FACTS AS YOU DETERMINE THEM
4 TO BE.

5 THE FACT THAT MR. EDMONDS IS NOT PRESENT AS I HAVE TOLD YOU
6 BEFORE IS NOT TO BE TAKEN IS NOT TO BE TAKEN INTO CONSIDERATION BY
7 YOU IN ANY WAY WHATSOEVER. AS I TOLD YOU BEFORE, AND I WILL TELL
8 YOU IN A MOMENT, HE IS PRESUMED INNOCENT AND NEED NOT PROVE HIS
9 INNOCENCE. THE STATE MUST PROVE HIS GUILT BEYOND A REASONABLE
10 DOUBT.

11 THE FACT THAT MR. EDMONDS WAS ARRESTED, THAT HE WAS
12 CHARGED, THAT HE WAS INDICTED AND THAT THIS TRIAL IS TAKING PLACE
13 IS NOT EVIDENCE THAT HE COMMITTED THIS OFFENSE. THAT'S THE WAY
14 OUR SYSTEM WORKS. THE FACT THAT HE IS ON TRIAL IS NOT EVIDENCE
15 THAT HE HAS COMMITTED ANY OFFENSE. IT IS UP TO YOU TO DETERMINE
16 WHETHER THE STATE HAS MET THE BURDEN OF PROOF, AND PROVEN HIS
17 GUILT BEYOND A REASONABLE DOUBT.

18 YOU WILL HAVE WITH YOU, MR. FOREMAN AND MEMBERS OF THE
19 JURY, THE INDICTMENT AS YOU DELIBERATE. IT IS NOT EVIDENCE. THE
20 INDICTMENT IS SIMPLY THE PAPERWORK WITH WHICH THIS CASE HAS BEEN
21 PROCEEDED THROUGH OUR COURT SYSTEM. IT CONTAINS THE CHARGES
22 AGAINST MR. EDMONDS AND IT WILL ULTIMATELY BE WHETHER THE
23 UNANIMOUS VERDICT OF THE JURY IS ENROLLED.

24 AS I STATED A MOMENT AGO, MR. EDMONDS, LIKE ANYONE CHARGED
25 WITH ANY OFFENSE UNDER OUR SYSTEM IS PRESUMED INNOCENT OF THAT

1 OFFENSE. THIS PRESUMPTION OF INNOCENCE IS NOT A MERE LEGAL THEORY
2 OR A MERE LEGAL PHRASE. IT IS A SUBSTANTIAL RIGHT. IT'S A RIGHT
3 WHICH INURES TO THE BENEFIT OF ANYONE CHARGED WITH ANY OFFENSE
4 UNDER OUR SYSTEM, AND ATTACHES AT THE TIME THAT INDIVIDUAL IS
5 ARRESTED, AND REMAINS WITH HIM AS THE CASE IS PROCESSED THROUGH
6 OUR COURT SYSTEM.

7 THE PRESUMPTION OF INNOCENCE REMAINS IN EFFECT AND IN HIS
8 FAVOR AT THIS MOMENT AS I SPEAK. IN FACT, IT REMAINS IN HIS FAVOR
9 EVEN AS YOU DELIBERATE. THE PRESUMPTION OF INNOCENCE IN MR.
10 EDMONDS' FAVOR IS REMOVED IF AND WHEN, AND ONLY IF AND WHEN, YOU
11 DETERMINE THAT THE STATE HAS PROVEN HIS GUILT BEYOND A
12 REASONABLE DOUBT.

13 NOW, THE STATE IS NOT REQUIRED TO PROVE HIS GUILT BEYOND ALL
14 OR BEYOND EVERY DOUBT. AS WE KNOW, THERE ARE VERY FEW THINGS IN
15 OUR WORLD THAT WE CAN PROVE WITH ABSOLUTE CERTAINTY. THE STATE
16 IS REQUIRED TO PROVE HIS GUILT BEYOND A REASONABLE DOUBT.

17 A REASONABLE DOUBT IS THE KIND OF DOUBT THAT WOULD CAUSE A
18 REASONABLE TO HESITATE TO ACT. PROOF BEYOND A REASONABLE DOUBT
19 IS PROOF THAT WOULD LEAVE YOU AND DOES LEAVE YOU FIRMLY
20 CONVINCED OF MR. EDMONDS' GUILT.

21 IF BASED ON YOUR CONSIDERATION OF THE EVIDENCE YOU ARE
22 FIRMLY CONVINCED THAT MR. EDMONDS COMMITTED THIS OFFENSE, THEN
23 YOU WOULD FIND HIM GUILTY. ON THE OTHER HAND, IF YOU THINK THERE
24 IS A REAL POSSIBILITY THAT HE IS NOT GUILTY, YOU MUST GIVE HIM THE
25 BENEFIT OF THAT DOUBT AND FIND HIM NOT GUILTY. MR. EDMONDS IS

1 ENTITLED TO ANY, TO THE BENEFIT OF ANY REASON REASONABLE DOUBT
2 YOU HAVE AS TO ANY ISSUE IN THIS CASE.

3 AS I TOLD YOU EARLIER, IT IS MY DUTY TO CHARGE YOU THE LAW
4 AND IT IS YOUR DUTY TO ACCEPT THE LAW. YOU MUST DO THAT EVEN IF
5 YOU THINK I CHARGE THE LAW IN ERROR, OR IF YOU THINK THE LAW
6 SHOULD TO BE DIFFERENT.

7 YOU ARE NOT TO INFER FROM ANYTHING I HAVE SAID OR DONE OR
8 ANYTHING I NOW SAY OR DO AS INDICATING AN OPINION OF MINE ON THE
9 FACTS. OUR LAW DOES NOT ALLOW THE TRIAL JUDGE TO EXPRESS TO A
10 JURY ANY OPINION ON THE FACTS. IT IS SOLELY UP TO YOU TO EXAMINE
11 THE EVIDENCE AND TO GIVE TO THE EVIDENCE THE EFFECT, THE VALUE, THE
12 WEIGHT, AND THE TRUTH THAT YOU FEEL IT SHOULD HAVE.

13 IN DOING THIS, YOU MAY BELIEVE ONE WITNESS AS OPPOSED TO
14 SEVERAL, SEVERAL WITNESSES AS OPPOSED TO ONE. YOU MAY BELIEVE ALL
15 OR PART OR NONE OF A WITNESS' TESTIMONY.

16 USE YOUR COMMON SENSE, YOUR SENSE OF LOGIC, YOUR SENSE OF
17 REASON. USE YOUR EXPERIENCES IN LIFE AS YOU ANALYZE THE EVIDENCE.
18 IN ASSESSING THE FACTS, YOU MUST NECESSARILY JUDGE THE CREDIBILITY;
19 THAT IS, THE BELIEVABILITY OF THE WITNESSES WHO TESTIFY.

20 IN ASSESSING BELIEVABILITY, CREDIBILITY, USE THE THINGS I'VE
21 TALKED ABOUT. USE THE THINGS THAT YOU IN YOUR DAY TO DAY LIFE
22 FIND AS BEING INDICATIVE OF TRUTHFULNESS. AND YOU CAN USE CERTAIN
23 EVALUATORS: THE WITNESS' DEMEANOR, HOW THE WITNESS ACTS ON THE
24 STAND. IS THE WITNESS HESITANT OR STRAIGHTFORWARD.

1 YOU CAN LOOK AT THE DEMEANOR OF A WITNESS, HOW THEY ACT.
2 YOU CAN CONSIDER WHETHER OR NOT THEY HAVE ANY BIAS OR PREJUDICE;
3 THAT IS, WHETHER THEY HAVE A DESIRE TO HELP OR HURT ONE SIDE OR THE
4 OTHER. YOU CAN CONSIDER THE OPPORTUNITY A WITNESS HAD TO KNOW
5 THAT TO WHICH THE WITNESS TESTIFIED.

6 THE TESTIMONY OF A WITNESS MAY BE DISCREDITED OR IMPEACHED
7 BY SHOWING THAT A PREVIOUSLY MADE STATEMENT IS INCONSISTENT
8 WITH THE PRESENT TESTIMONY. EARLY, CONTRADICTORY STATEMENTS
9 ARE ADMISSIBLE TO ESTABLISH THE TRUTH OF THOSE STATEMENTS. IT IS UP
10 TO YOU TO DETERMINE THE CREDIBILITY OF ANY GIVEN, EARLIER
11 STATEMENTS AS OPPOSED TO STATEMENTS GIVEN AT TRIAL.

12 IF A WITNESS HAS SHOWN KNOWINGLY TO HAVE TESTIFIED FALSELY
13 CONCERNING ANY MATERIAL MATTER, YOU MAY CONSIDER THIS IN
14 DETERMINING WHETHER TO RELY UPON THAT WITNESS' TESTIMONY AS TO
15 OTHER ISSUES. YOU MAY REJECT ALL OF THE TESTIMONY OF WITNESS OR
16 GIVE ALL OR PART OF IT ANY CONSIDERATION YOU THINK IT DESERVES.

17 THERE ARE TWO TYPES OF EVIDENCE WHICH ARE GENERALLY
18 PRESENTED IN A TRIAL: DIRECT AND CIRCUMSTANTIAL. DIRECT EVIDENCE
19 IS EVIDENCE WHICH IMMEDIATELY ESTABLISHES THE FACTS SOUGHT TO BE
20 PROVEN. IT IS USUALLY TESTIMONY BY SOMEONE THAT THEY SAW OR
21 HEARD SOMETHING.

22 CIRCUMSTANTIAL EVIDENCE IS PROOF OF A CHAIN OF FACTS AND
23 CIRCUMSTANCES WHICH INDICATE THE EXISTENCE OF A FACT.
24 CIRCUMSTANTIAL EVIDENCE IS EVIDENCE WHICH ESTABLISHES
25 COLLATERAL FACTS FROM WHICH THE MAIN FACTS MAY BE INFERRED.

1 CIRCUMSTANTIAL EVIDENCE IS BASED ON INFERENCE AND NOT ON
2 PERSONAL KNOWLEDGE OR OBSERVATION. OUR LAW MAKES ABSOLUTELY
3 NO DISTINCTION BETWEEN THE TWO. THERE IS NOT A GREATER DEGREE OF
4 CERTAINTY REQUIRED OF CIRCUMSTANTIAL EVIDENCE THAN THERE IS OF
5 DIRECT EVIDENCE.

6 WHAT YOU SHOULD DO IN THIS CASE IS WEIGH ALL THE EVIDENCE.
7 AFTER WEIGHING ALL THE EVIDENCE, IF YOU ARE NOT CONVINCED OF MR.
8 EDMONDS' GUILT BEYOND A REASONABLE DOUBT YOU WOULD FIND HIM
9 NOT GUILTY.

10 I TOLD YOU TWICE, I BELIEVE, ALREADY, AND I WILL TELL YOU AGAIN
11 THAT THE FACT THAT MR. EDMONDS IS NOT PRESENT IS NOT TO BE
12 CONSIDERED BY YOU IN ANY MANNER WHATSOEVER. HE HAS THAT
13 PRESUMPTION OF INNOCENCE. THE STATE HAS THE BURDEN OF PROOF.

14 ALSO, MR. EDMONDS, WERE HE HERE, WOULD HAVE THE RIGHT TO
15 REMAIN SILENT. THE FACT THAT HE DID NOT PRESENT, HE DID NOT TESTIFY
16 IN THIS CASE CANNOT BE USED AGAINST HIM. HE IS PRESUMED INNOCENT
17 AND YOU CANNOT USE THE FACT THAT HE WAS NOT HERE AND THE FACT
18 THAT HE DID NOT TESTIFY AGAINST HIM IN ANY WAY WHATSOEVER. AGAIN,
19 THE STATE HAS THE BURDEN OF PROOF TO PROVE HIS GUILT BEYOND A
20 REASONABLE DOUBT. YOU CANNOT EVEN DISCUSS IN THE JURY ROOM THE
21 FACT THAT HE WAS ABSENT. YOU CANNOT DISCUSS THE FACT THAT HE
22 CHOSE TO EXERCISE HIS CONSTITUTIONAL RIGHT TO REMAIN SILENT.

23 NOW, MR. EDMONDS IS CHARGED WITH A STATUTORY OFFENSE. OUR
24 LEGISLATURE HAS ENACTED ACTS WHICH CONTROL THE OPERATION OF
25 MOTOR VEHICLES ON OUR HIGHWAYS. THE PARTICULAR ONE IN QUESTION

1 IS SECTION 56-5-750, AND YOU DO NOT HAVE TO REMEMBER THE NUMBER,
2 OBVIOUSLY. BUT, UNDER THAT STATUTE, TO PROVE THE OFFENSE, THAT IS,
3 FAILURE TO STOP FOR A BLUE LIGHT, THE STATE MUST PROVE BEYOND A
4 REASONABLE DOUBT MR. EDMONDS WAS DRIVING A MOTOR VEHICLE, THAT
5 HE WAS DRIVING IT ON A ROAD, STREET OR HIGHWAY OF OUR STATE, THAT
6 HE WAS SIGNALLED TO STOP BY A LAW ENFORCEMENT OFFICER BY MEANS OF
7 A SIREN OR A FLASHING LIGHT, AND THAT HE DID NOT STOP.

8 IN RESPONSE TO THAT, OFFICIAL SIGNAL REQUIRING THE MOTORIST
9 TO STOP MAY BE BY SIREN OR FLASHING LIGHTS, BUT BOTH ARE NOT
10 REQUIRED TO BE GIVEN. AN ATTEMPT TO INCREASE THE SPEED OF A
11 VEHICLE ON SOME OTHER MANNER OR TO AVOID PURSUING, LAW
12 ENFORCEMENT VEHICLES, AFTER HAVING BEEN SIGNALLED TO DO SO, MAY
13 BE CONSIDERED AS EVIDENCE OF FAILURE TO STOP FOR A BLUE LIGHT.

14 HOWEVER, THIS IS MERELY AN EVIDENTIARY FACT TO BE TAKEN INTO
15 CONSIDERATION BY YOU ALONG WITH THE OTHER EVIDENCE IN THE CASE
16 AND TO BE GIVEN SUCH WEIGHT, IF ANY, YOU BELIEVE IT SHOULD HAVE.

17 AN ISSUE IN THIS CASE IS THE IDENTIFICATION OF MR. EDMONDS AS
18 THE PERSON WHO WAS DRIVING THAT PARTICULAR AUTOMOBILE. THE
19 STATE HAS THE BURDEN OF PROVING THE IDENTITY BEYOND A REASONABLE
20 DOUBT. YOU MUST BE SATISFIED BEYOND A REASONABLE DOUBT OF THE
21 ACCURACY OF THE IDENTIFICATION AS THE OPERATOR OF THAT VEHICLE
22 BEFORE YOU MAY CONVICT HIM.

23 IDENTIFICATION TESTIMONY IS AN EXPRESSION OF A BELIEF OR
24 IMPRESSION BY A WITNESS. YOU MUST DETERMINE THE ACCURACY OF THE
25 IDENTIFICATION OF MR. EDMONDS. YOU MUST CONSIDER THE

1 BELIEVABILITY OF THE IDENTIFYING WITNESS IN THE SAME WAY AS YOU
2 WOULD ALL OF HIS TESTIMONY. YOU MAY CONSIDER WHETHER THE
3 WITNESS HAD AN ADEQUATE OPPORTUNITY TO OBSERVE THE OFFENDER AT
4 THE TIME OF THE OFFENSE. AND THIS WILL BE AFFECTED BY SUCH THINGS
5 AS HOW LONG OR SHORT A TIME WAS AVAILABLE, HOW FAR OR CLOSE THE
6 WITNESS WAS, AND THE LIGHTING CONDITIONS AVAILABLE.

7 I INSTRUCT YOU THAT THE BURDEN OF PROOF IS ON THE STATE AND IT
8 EXTENDS TO EVERY ELEMENT IN THE CASE, INCLUDING IDENTIFICATION OF
9 MR. EDMONDS AS THE INDIVIDUAL WHO COMMITTED THIS OFFENSE.

10 IF AFTER YOU EXAMINE THE TESTIMONY YOU HAVE A REASONABLE
11 DOUBT AS TO WHETHER OR NOT IT WAS IN FACT MR. EDMONDS OPERATING
12 THAT MOTOR VEHICLE YOU WOULD FIND HIM NOT GUILTY.

13 MERE PRESENCE AT THE SCENE OF A PLACE WHERE A CRIME HAS BEEN
14 COMMITTED IS NOT ALONE SUFFICIENT TO PROVE SOMEONE GUILTY OF THE
15 CRIME. THE BURDEN IS ON THE STATE TO PROVE EVERY ELEMENT OF THE
16 CRIME CHARGED. IF YOU FIND AFTER REVIEWING ALL THE EVIDENCE THAT
17 THE STATE HAS PROVEN MR. EDMONDS WAS ONLY PRESENT AT THE SCENE,
18 AND THAT THEY HAVE NOT PROVEN BEYOND A REASONABLE DOUBT ANY
19 OTHER PARTICIPATION IN THE CRIME, THEN YOU MUST FIND HIM NOT
20 GUILTY. THE LAW IS THAT PROOF OF ONE AT THE SCENE OF A CRIME ALONE
21 IS NOT SUFFICIENT TO FIND SOMEONE GUILTY.

22 IN THIS CASE, AS I'VE TOLD YOU, YOU'LL HAVE WITH YOU IN THE JURY
23 ROOM THE INDICTMENT, AND IT IS NOT EVIDENCE, IT'S THE CHARGING
24 PAPER. SO, I WON'T GO OVER THAT AGAIN. AND THE CHARGE IS, OF COURSE,
25 THAT ON NOVEMBER 2, 2008, HERE IN YORK COUNTY, SOUTH CAROLINA, MR.

1 EDMONDS DROVE A MOTOR VEHICLE AND DID NOT STOP AFTER BEING
2 PROPERLY SIGNED BY LAW ENFORCEMENT.

3 I WILL TELL YOU MORE ABOUT WHERE THE BURDEN WILL BE
4 ENROLLED, MR. FOREMAN, IN JUST A MOMENT.

5 YOUR VERDICT IN THIS CASE MUST BE UNANIMOUS. ALL TWELVE
6 JURORS MUST AGREE. AND ONCE ALL TWELVE JURORS HAVE AGREED, MR.
7 FOREMAN, YOU WILL ENROLL THE VERDICT, AND I'LL TALK TO YOU ABOUT
8 THAT IN JUST A SECOND.

9 YOUR VERDICT CANNOT BE BASED ON PASSION, PREJUDICE,
10 SYMPATHY, PUBLIC OPINION, OR MATTERS OUTSIDE THE RECORD. IF WHILE
11 YOU ARE DELIBERATING, YOU HAVE ANY QUESTIONS, PLEASE WRITE THEM
12 DOWN AND SEND THEM OUT. KNOCK ON THE DOOR AND GIVE THEM TO THE
13 BAILIFF. THE BAILIFF WILL BRING THEM TO ME. WE WILL PROBABLY BE
14 DOING SOME OTHER WORK AND WE WILL BREAK AS QUICK AS WE CAN TO
15 RESPOND.

16 IF YOU SEND OUT A NOTE, I WILL HAVE TO CONFER WITH THE
17 ATTORNEYS. IT MAY BE THAT I CAN REPLY TO THAT NOTE BY WRITING AN
18 ANSWER ON THE NOTE. IT MAY BE THAT I'LL HAVE TO BRING YOU BACK
19 HERE IN THE COURTROOM TO ANSWER ANY QUESTIONS YOU MAY HAVE.

20 YOU CAN HAVE TESTIMONY REPLAYED. AND IF YOU WISH TO--

21 ARE THEY GOING TO HAVE THE ABILITY TO SEE THE VIDEO IN THE
22 JURY ROOM?

23 MS. DESCH: WE'LL FIGURE OUT A WAY, YOUR HONOR.

24 THE COURT: IT'S IN EVIDENCE, SO YOU'LL HAVE THE DISK THERE WITH
25 YOU AND YOU CAN PLAY IT AND WATCH IF YOU WISH. OR IF YOU FEEL LIKE

1 YOU'VE GOT TO HAVE A LARGER PICTURE, LET US KNOW AND WE CAN BRING
2 YOU OUT AND HAVE IT DISPLAYED HERE WITHOUT ANY COMMENT FROM
3 ANYONE. THE RECORD'S CLOSED, BUT WE CAN PLAY IT FOR YOU OUT HERE.

4 WE CAN REPLAY TESTIMONY IF YOU WISH TO HAVE THAT OCCUR.

5 IN SOUTH CAROLINA, WE CANNOT SEND IN A WRITTEN CHARGE ON
6 THE LAW WITH THE JURY. IF YOU HAVE ANY QUESTIONS, HOWEVER, ABOUT
7 MY CHARGE, LET ME KNOW BY WAY OF A NOTE, AND I WILL BRING YOU
8 BACK IN AND GIVE A RECHARGE ON ANY PART OF THE LAW.

9 WHEN YOU'VE REACHED A VERDICT, SIMPLY KNOCK ON THE DOOR
10 AND TELL THE BAILIFF AND THE BAILIFF WILL COME AND GET US AND AS
11 PROMPTLY AS WE CAN, WE WILL SEND FOR YOU, AND YOU CAN COME IN
12 AND WE'LL TAKE THE VERDICT AT THAT TIME.

13 NOW, WHEN YOU FIRST GO OUT AND GO TO THE JURY ROOM, DO NOT
14 STOP DELIBERATING. I HAVE TO GO OVER MY CHARGE WITH THE
15 ATTORNEYS. IF I HAVE MADE AN ERROR, I WILL HAVE TO BRING YOU BACK
16 IN AND CORRECT IT. IF NOT, I WILL SEND IN THE INDICTMENTS, THE
17 EXHIBITS AND THE BAILIFF WILL TELL YOU TO START DELIBERATING AT
18 THAT TIME. AND AS I SAID, WHEN YOU HAVE REACHED A VERDICT, KNOCK
19 ON THE DOOR AND LET THE BAILIFF KNOW AND WE WILL SEND FOR YOU AS
20 PROMPTLY AS WE CAN.

21 MR. RAWLS, YOU WILL STAY IN. YOU WILL NOT GO OUT AT THIS TIME
22 AS YOU WERE THE ALTERNATE. WE HAVE EVERYBODY STILL REMAINING
23 WITH US.

24 MR. SIPPEL, ON THE BACK OF THE INDICTMENT, YOU WILL SEE IN THE
25 LEFT-HAND, BOTTOM CORNER, THE WORD VERDICT, AND FOUR LINES, BEING

1 THE BOTTOM LINE FOR YOUR SIGNATURE AND A PLACE FOR YOU TO DATE IT
2 UNDERNEATH THOSE SIGNATURE.

3 ON ONE OF THOSE OTHER THREE LINES ABOVE YOUR SIGNATURE, YOU
4 WILL ENROLL THE VERDICT OF THE JURY. IF THE STATE HAS FAILED TO
5 PROVE MR. EDMONDS' GUILT OF THIS OFFENSE, YOUR VERDICT WILL BE THE
6 TWO WORDS, NOT GUILTY. YOU WILL SIMPLY WRITE THOSE ON THE LINE.

7 IF, ON THE OTHER HAND, THE STATE HAS PROVED BEYOND A
8 REASONABLE DOUBT TO THE JURY'S UNANIMOUS SATISFACTION THAT MR.
9 EDMONDS DID COMMIT THIS OFFENSE, YOU WOULD WRITE ON ONE OF THOSE
10 LINES THE WORD, GUILTY.

11 I'M GOING TO LET YOU GO TO THE JURY. DON'T START DELIBERATING
12 UNTIL YOU HEAR BACK FROM ME.

13 (WHEREUPON THE JURY EXITED THE COURTROOM AT 9:54 A.M.)
14 ANY EXCEPTIONS FROM THE STATE?

15 MS. DESCH: NOTHING FROM THE STATE, YOUR HONOR.

16 MR. SULLIVAN: NOTHING FROM THE DEFENSE, YOUR HONOR.

17 THE COURT: ALL RIGHT. IF YOU WILL CHECK THE INDICTMENT AND
18 THE EXHIBITS AND SEND THEM BACK.

19 (WHEREUPON COUNSEL RECONCILED EXHIBITS)

20 MS. DESCH: THE EXHIBITS ARE IN ORDER, YOUR HONOR.

21 THE COURT: ALL RIGHT. MR. RAWLS, YOU ARE THROUGH FOR THE
22 WEEK. WE APPRECIATE YOUR HELP, AND YOU CAN STAY AROUND IF YOU
23 WISH OR YOU CAN GO, IF YOU WISH. YOU'LL BE MAILED A CHECK.

24 ALL RIGHT. WE'LL BE AT EASE. TAKE THAT ON BACK AND HAVE THEM
25 START DELIBERATING.

1 (WHEREUPON JURY DELIBERATIONS BEGAN AT 9:55 A.M. AND COURT
2 WAS IN RECESS)

3 COURT IN SESSION - 10:39 A.M.

4 THE COURT: IS THE STATE READY FOR THE JURY?

5 MS. DESCH: YES, YOUR HONOR.

6 THE COURT: THE DEFENSE?

7 MR. SULLIVAN: YES, YOUR HONOR.

8 THE COURT: BRING IN THE JURY.

9 (WHEREUPON THE JURY ENTERED THE COURTROOM)

10 MR. FOREMAN, I UNDERSTAND THAT JURY HAS REACHED A VERDICT.

11 MR. FOREMAN: WE HAVE, YOUR HONOR.

12 THE COURT: PLEASE HAND IT TO THE BAILIFF WHO WILL PASS IT UP.

13 (PAUSE)

14 MADAM CLERK, PLEASE PUBLISH THE VERDICT.

15 CLERK OF COURT: INDICTMENT 2009-GS-46-396, THE STATE VERSUS
16 GERVAIS EDMONDS, INDICTMENT FOR FAILURE TO STOP FOR A BLUE LIGHT,
17 VERDICT, GUILTY, SIGNED BY THE FOREPERSON, DATED TODAY'S DATE.

18 LADIES AND GENTLEMEN OF THE JURY, IF THIS BE YOUR VERDICT SO
19 SAY YOU ALL BY RAISING YOUR RIGHT HAND.

20 (WHEREUPON ALL JURORS RAISED THEIR RIGHT HAND)

21 LET THE RECORD SHOW ALL JURORS RAISED THEIR HANDS.

22 THE COURT: ANYTHING FROM THE STATE BEFORE THE JURY IS
23 DISMISSED?

24 MS. DESCH: NOTHING FROM THE STATE.

25 THE COURT: ANYTHING FROM THE DEFENSE?

1 MR. SULLIVAN: NO SIR.

2 THE COURT: MEMBERS OF THE JURY PANEL, THIS WILL FINISH YOUR
3 WORK FOR THE WEEK. WE APPRECIATE YOUR HELP. WE WILL BE DOING
4 THINGS FOR THE REST OF THE WEEK THAT DO NOT REQUIRE A JURY. WE
5 APPRECIATE YOUR CHECK, AND YOU WILL BE MAILED A CHECK. YOU ARE
6 FREE TO LEAVE AT THIS TIME.

7 (WHEREUPON THE JURY EXITED THE COURTROOM)

8 ANYTHING FROM THE STATE?

9 MS. DESCH: NOTHING FROM THE STATE, YOUR HONOR.

10 THE COURT: ANYTHING FROM THE DEFENSE?

11 MR. SULLIVAN: NOTHING FROM THE DEFENSE, YOUR HONOR.

12 THE COURT: DO YOU HAVE A SENTENCING SHEET?

13 CLERK OF COURT: YES, YOUR HONOR.

14 (PAUSE)

15 THE COURT: IS THIS THE FIRST OR SECOND OFFENSE?

16 MS. DESCH: SECOND OFFENSE, YOUR HONOR. AND I DO HAVE A
17 CERTIFIED COPY OF EIGHT PRIOR FAILURES TO STOP FOR A BLUE LIGHT, IN
18 CASE YOU NEEDED IT FOR THE RECORD.

19 THE COURT: THANK YOU. OTHER THAN HIS PRIOR FAILURE TO STOP,
20 WHAT OTHER RECORD DOES HE HAVE?

21 MS. DESCH: HE HAS CONVICTIONS FROM JULY OF '07, NO LICENSE,
22 DRIVING UNDER SUSPENSION; JULY OF '01, POSSESSION WITH INTENT TO
23 DISTRIBUTE MARIJUANA; SEPTEMBER OF '02, DRIVING UNDER SUSPENSION,
24 UNLAWFUL CARRYING OF A WEAPON; JANUARY OF '03, DRIVING UNDER
25 SUSPENSION, THIRD OR FOURTH SUBSEQUENT; A FAILURE TO STOP FOR BLUE

1 LIGHT AND ASSAULT OF A HIGH AND AGGRAVATED NATURE, TWO COUNTS.
2 IN '06, YOUR HONOR, HE WAS CONVICTED OF SELLING CRACK COCAINE AND
3 A PROXIMITY CHARGE. IN '07, ANOTHER FAILURE TO STOP AND SELLING OF
4 CRACK COCAINE. AND THAT BRINGS US TO 11 OF '08. HE HAS AT LEAST TWO
5 PRIOR FAILURES TO STOP, IN ADDITION TO HIS DRUG CHARGES.

6 THE COURT: ANYTHING IN MITIGATION, MR. SULLIVAN?

7 MR. SULLIVAN: YOUR HONOR, THE ONLY THING WE WOULD
8 RESPECTFULLY ASK YOUR HONOR TO CONSIDER IS PERHAPS RESERVING
9 SENTENCING. I'VE BEEN REPRESENTING MR. EDMONDS SINCE DECEMBER OF
10 LAST YEAR WHEN HE PICKED UP THIS FAILURE TO STOP CHARGE AT THAT
11 TIME. WE WERE CLOSE TO REACHING A RESOLUTION IN THAT CASE.
12 UNFORTUNATELY, BEFORE HE WAS ABLE TO RESOLVE THAT CASE HE PICKED
13 UP SOME ADDITIONAL DRUG CHARGES. THOSE CHARGES ARE STILL
14 PENDING.

15 WE WOULD ASK YOUR HONOR TO CONSIDER PERHAPS DEFERRING
16 SENTENCING ON THIS CASE UNTIL HE IS PICKED UP ON THOSE OTHER
17 ADDITIONAL DRUG CHARGES.

18 THE COURT: WELL, I'M NOT GOING TO DEFER SENTENCING. HE'S GOT A
19 HORRIBLE RECORD. THIS WAS A PRETTY BAD SCENE. HE'S NO STRANGER TO
20 NOT OBEYING THE LAW. SO, I THINK I CAN METE OUT AN APPROPRIATE
21 SENTENCE WITHOUT DEFERRING IT.

22 MR. SULLIVAN: THANK YOU, YOUR HONOR.

23 THE COURT: I'M GOING TO ISSUE A SEALED SENTENCE, AND BENCH
24 WARRANT WILL BE ISSUED FOR MR. EDMONDS. IF HE IS ARRESTED HE WILL

1 BE BROUGHT BEFORE THE COURT AND THE SEALED SENTENCE WILL BE
2 OPENED AT THAT TIME.

3 MS. DESCH: THANK YOU, YOUR HONOR.

4 MR. SULLIVAN: THANK YOU, YOUR HONOR.

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CERTIFICATE

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I, THE UNDERSIGNED PHYLLIS S. BARRETT, CIRCUIT COURT REPORTER
FOR THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE
FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD
OF THE TRIAL IN THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE COURT
OF GENERAL SESSIONS FOR THE SIXTEENTH JUDICIAL CIRCUIT, YORK
COUNTY, SOUTH CAROLINA ON THE 4TH DAY OF NOVEMBER, 2009.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR
INTEREST TO ANY PARTY HERETO.



PHYLLIS S. BARRETT

STATE OF SOUTH CAROLINA)
 :
COUNTY OF YORK)
 :

COURT OF GENERAL SESSIONS
SIXTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,)
 :
 PLAINTIFF,)
 :
 VERSUS)
 :
GERVAIS LAVAR EDMONDS,)
 :
 DEFENDANT.)

TRANSCRIPT OF RECORD
2009-GS-46-396
2009-GS-46-3783

DECEMBER 7, 2009
YORK, SOUTH CAROLINA

B E F O R E:

THE HONORABLE LEE S. ALFORD, JUDGE

A P P E A R A N C E S:

FOR THE STATE:
JENNY E. DESCH, ESQ., ASSISTANT SOLICITOR

FOR THE DEFENSE:
JONATHAN SULLIVAN, ESQ., ASSISTANT PUBLIC DEFENDER

PHYLLIS S. BARRETT
CIRCUIT COURT REPORTER

1 DEFENDANT WAS PLACED UNDER OATH PRIOR TO TAKING OF PLEA
2 NO EXHIBITS WERE ENTERED INTO THE RECORD OF CASE 2009-GS-46-3783

3 THE COURT: SOLICITOR.

4 MS. DESCH: MAY IT PLEASE THE COURT, YOUR HONOR.

5 THE COURT: YES MA'AM.

6 THE COURT: YOUR HONOR, STANDING BEFORE YOU IS GERVAIS
7 LAVAR EDMONDS. HE IS HERE WITH HIS ATTORNEY, JONATHAN SULLIVAN
8 OF THE PUBLIC DEFENDER'S OFFICE. NOVEMBER 4, HE WAS CONVICTED AT
9 TRIAL FOR FAILURE TO STOP FOR A BLUE LIGHT, SECOND OFFENSE. THE
10 CONVICTION AND SENTENCE WERE SEALED IN AN ENVELOPE, WHICH HAS
11 BEEN HANDED TO YOU TO BE READ TODAY. HE WAS PICKED UP THIS
12 WEEKEND AFTER BEING NOTICED FOR TRIAL ON 2009-GS-46-3783. THAT IS A
13 CHARGE OF POSSESSION OF CRACK COCAINE WITH INTENT TO DISTRIBUTE,
14 THIRD OFFENSE. IT WAS SET FOR TRIAL WHEN HE WAS PICKED UP. HE IS
15 PLEADING GUILTY TO POSSESSION WITH INTENT TO DISTRIBUTE CRACK
16 COCAINE, SECOND OFFENSE. A CAP OF EIGHT, YOUR HONOR, IS THE
17 RECOMMENDATION ON THE TRIAL PLEA. THERE HAVE BEEN NO
18 DISCUSSIONS AS TO EITHER CONCURRENT OR CONSECUTIVE.

19 THE COURT: YOU WANT ME TO OPEN THE SEALED SENTENCE FIRST?

20 MS. DESCH: YES SIR.

21 THE COURT: MR. SULLIVAN?

22 MR. SULLIVAN: THAT'S FINE, YOUR HONOR.

23 THE COURT: I AM NOW OPENING THE SIGNED AND SEALED SENTENCE,
24 SEALED ON NOVEMBER 4, 2009, BY JUDGE HAYES, JUDGE JOHN C. HAYES,
25 NOVEMBER 4, 2009.

1 IN CASE NUMBER 2009-GS-46-396, THE SENTENCE FOR GERVAIS
2 EDMONDS FOR FAILURE TO STOP FOR A BLUE LIGHT, SECOND OFFENSE, BY
3 JUDGE HAYES. HE WAS COMMITTED TO THE STATE DEPARTMENT OF
4 CORRECTIONS FOR A DETERMINATE TERM OF FIVE YEARS.

5 WE'LL NOW GO FORWARD ON THE POSSESSION WITH INTENT TO
6 DISTRIBUTE CRACK, SECOND OFFENSE.

7 MR. EDMONDS, HOW OLD ARE YOU?

8 MR. EDMONDS: 29.

9 THE COURT: HOW FAR DID YOU GO IN SCHOOL?

10 MR. EDMONDS: NINTH GRADE.

11 THE COURT: WHAT DO YOU DO FOR A JOB OR OCCUPATION?

12 MR. EDMONDS: CLEAN CARS.

13 THE COURT: ARE YOU MARRIED?

14 MR. EDMONDS: NO SIR.

15 THE COURT: DO YOU HAVE CHILDREN?

16 MR. EDMONDS: YES SIR.

17 THE COURT: WHAT ARE THEIR AGES?

18 MR. EDMONDS: MY ADOPTED DAUGHTER IS FOUR YEARS OLD, AND I
19 HAVE ONE ON THE WAY.

20 THE COURT: HOW MUCH TIME DID YOU SERVE IN JAIL ON THIS
21 CHARGE?

22 MR. EDMONDS: WHICH ONE?

23 THE COURT: THE FAILURE TO STOP FOR A BLUE LIGHT, AND ALSO THE
24 CHARGE FOR POSSESSION WITH INTENT TO DISTRIBUTE COCAINE.

25 MR. EDMONDS: TWO MONTHS.

1 THE COURT: MR. EDMONDS, YOU'RE CHARGED TODAY WITH
2 POSSESSION WITH INTENT TO DISTRIBUTE CRACK COCAINE, SECOND
3 OFFENSE. THAT OFFENSE IS CLASSIFIED AS A FELONY. IT CARRIES A
4 MINIMUM SENTENCE OF FIVE YEARS, AND A MAXIMUM SENTENCE OF
5 THIRTY YEARS, WITH A \$50,000 FINE. IT DOES NOT ALLOW FOR PROBATION.
6 IN OTHER WORDS, IT'S A NO-PAROLE OFFENSE, WHATEVER SENTENCE YOU
7 GET YOU WILL BE EXPECTED TO SERVE.

8 IF I ACCEPT YOUR PLEA OF GUILTY TO THIS CHARGE IT WILL
9 CONSTITUTE A DRUG OFFENSE FOR THE RECORD. THE IMPORTANCE OF THAT
10 IS SHOULD YOU GET ANOTHER DRUG OFFENSE AT ANY TIME IN THE FUTURE,
11 WITH THIS CHARGE ON YOUR RECORD, THE SENTENCE WILL BE ENHANCED
12 OR MADE HIGHER WITH THIS ON YOUR RECORD. DO YOU UNDERSTAND
13 THAT?

14 MR. EDMONDS: YES SIR.

15 THE COURT: UNDERSTANDING ALL THAT, HOW DO YOU WISH TO
16 PLEAD TO THIS CHARGE TODAY, GUILTY OR NOT GUILTY?

17 MR. EDMONDS: GUILTY.

18 THE COURT: DO YOU UNDERSTAND BY PLEADING GUILTY YOU GIVE
19 UP YOUR RIGHT TO REMAIN SILENT?

20 MR. EDMONDS: YES SIR.

21 THE COURT: DO YOU UNDERSTAND BY PLEADING GUILTY, YOU GIVE
22 UP YOUR RIGHT TO A TRIAL BY JURY?

23 MR. EDMONDS: YES SIR.

1 THE COURT: AND IF YOU GIVE UP YOUR RIGHT TO A TRIAL BY JURY,
2 YOU ALSO GIVE UP YOUR RIGHT TO ASSERT ANY LEGAL DEFENSES YOU
3 MIGHT HAVE IN A JURY TRIAL.

4 MR. EDMONDS: YES SIR.

5 THE COURT: I KNOW YOUR ATTORNEY HAS GONE OVER YOUR RIGHTS
6 WITH YOU FOR A JURY TRIAL, BUT I WANT TO DO THAT AS WELL.

7 IF YOU REQUESTED A TRIAL BY JURY, AT TRIAL YOU HAVE THE RIGHT
8 TO CONFRONT AND CROSS EXAMINE ALL WITNESSES AGAINST YOU. YOU
9 WILL HAVE THE RIGHT TO PRESENT ANY WITNESSES AND/OR EVIDENCE IN
10 YOUR OWN DEFENSE. YOU WOULD HAVE THE RIGHT TO TESTIFY IN YOUR
11 OWN DEFENSE IF YOU WISHED TO DO SO, BUT NO ONE COULD MAKE YOU
12 TESTIFY IN YOUR OWN TRIAL.

13 IF YOU DECIDED TO GO TO TRIAL AND NOT TESTIFY, THE JUDGE
14 WOULD TELL THE JURY THAT THEY COULD NOT HOLD YOUR FAILURE TO
15 TESTIFY AGAINST YOU. IN FACT, THE JURY COULDN'T EVEN CONSIDER YOUR
16 FAILURE TO TESTIFY IN THEIR DELIBERATIONS ON YOUR GUILT OR
17 INNOCENCE. YOU WOULD BE PRESUMED INNOCENT THROUGHOUT YOUR
18 TRIAL. THE STATE WOULD HAVE TO PROVE YOU GUILTY BEYOND A
19 REASONABLE DOUBT TO A JURY OF TWELVE PEOPLE. ALL TWELVE PEOPLE
20 WOULD HAVE TO UNANIMOUSLY AGREE THAT YOU WERE GUILTY IN ORDER
21 FOR YOU TO BE CONVICTED. EVEN IF YOU WERE CONVICTED, YOU WOULD
22 STILL HAVE THE RIGHT TO APPEAL THAT CONVICTION.

23 DO YOU UNDERSTAND YOUR RIGHTS WITH REGARD TO A TRIAL BY
24 JURY?

1 THE COURT: NOW, MR. EDMONDS, YOU'VE INDICATED TO THE COURT
2 THAT YOU WISH TO PLEAD GUILTY TO THIS CHARGE, POSSESSION OF
3 COCAINE WITH INTENT TO DISTRIBUTE, SECOND OFFENSE. IS THAT
4 CORRECT?

5 MR. EDMONDS: YES SIR.

6 THE COURT: DO YOU UNDERSTAND BY PLEADING GUILTY TO THIS
7 CHARGE THAT YOU ARE GIVING UP YOUR RIGHT TO REMAIN SILENT; THAT IS,
8 TO SAY NOTHING. DO YOU UNDERSTAND THAT?

9 MR. EDMONDS: YES SIR.

10 THE COURT: DO YOU UNDERSTAND BY PLEADING GUILTY TO THIS
11 CHARGE YOU ARE GIVING UP YOUR RIGHT TO A TRIAL BY JURY?

12 MR. EDMONDS: YES SIR.

13 THE COURT: DO YOU UNDERSTAND BY WAIVING YOUR RIGHT TO A
14 TRIAL BY JURY YOU ARE ALSO WAIVING ANY DEFENSES YOU MIGHT HAVE,
15 LEGAL DEFENSES TO THIS CHARGE?

16 MR. EDMONDS: YES SIR.

17 *THE COURT: IF YOU REQUESTED A TRIAL, THE STATE WOULD GIVE
18 YOU A TRIAL. AT THAT TRIAL YOU WOULD HAVE THE RIGHT TO CONFRONT
19 AND CROSS EXAMINE ALL WITNESSES AGAINST YOU. YOU WOULD HAVE
20 THE RIGHT TO PRESENT ANY WITNESSES AND/OR EVIDENCE IN YOUR
21 DEFENSE. YOU WOULD HAVE THE RIGHT TO TESTIFY IN YOUR OWN DEFENSE
22 IF YOU WISHED TO DO SO, BUT NO ONE CAN MAKE YOU TESTIFY AT YOUR
23 OWN TRIAL.

24 IF YOU DECIDED TO GO TO TRIAL AND NOT TESTIFY, THE JUDGE
25 WOULD TELL THE JURY THAT THEY COULD NOT HOLD YOUR FAILURE TO

1 TESTIFY AGAINST YOU. IN FACT, THE JURY COULD NOT EVEN CONSIDER
2 YOUR FAILURE TO TESTIFY IN THEIR DELIBERATIONS OF YOUR GUILT OR
3 INNOCENCE. YOU WOULD BE PRESUMED INNOCENT THROUGHOUT YOUR
4 TRIAL. THE STATE WOULD HAVE TO PROVE YOU GUILTY BEYOND A
5 REASONABLE DOUBT TO A JURY OF TWELVE PEOPLE. ALL TWELVE PEOPLE
6 WOULD HAVE TO UNANIMOUSLY AGREE THAT YOU WERE GUILTY IN ORDER
7 FOR YOU TO BE CONVICTED. EVEN IF YOU WERE CONVICTED, YOU WOULD
8 STILL HAVE THE RIGHT TO APPEAL THAT CONVICTION. DO YOU
9 UNDERSTAND YOUR RIGHTS WITH REGARD TO A TRIAL BY JURY?

10 MR. EDMONDS: YES SIR.

11 THE COURT: UNDERSTANDING THAT RIGHT, DO YOU STILL WANT TO
12 PLEAD GUILTY OR DO YOU WANT TO GO FORWARD WITH A TRIAL?

13 MR. EDMONDS: NO SIR.

14 THE COURT: HAS ANYBODY PROMISED YOU ANYTHING OTHER THAN
15 THE NEGOTIATIONS IN ORDER TO GET YOU TO PLEAD GUILTY?

16 MR. EDMONDS: NO SIR.

17 THE COURT: HAS ANYBODY THREATENED YOU, COERCED YOU, OR
18 FORCED YOU TO PLEAD GUILTY AGAINST YOUR WILL?

19 MR. EDMONDS: NO SIR.

20 THE COURT: ARE YOU SATISFIED WITH THE MANNER IN WHICH YOUR
21 ATTORNEY HAS ADVISED AND REPRESENTED YOU IN THESE CASES?

22 MR. EDMONDS: YES SIR.

23 THE COURT: HAVE YOU AND YOUR ATTORNEY FULLY DISCUSSED THE
24 CHARGES AGAINST YOU?

25 MR. EDMONDS: YES SIR.

1 THE COURT: HAS YOUR ATTORNEY TOLD YOU THE WITNESSES AND
2 EVIDENCE THE STATE HAS AVAILABLE TO PRESENT AT TRIAL TO PROVE
3 YOUR GUILT?

4 MR. EDMONDS: YES SIR.

5 THE COURT: HAS YOUR ATTORNEY DISCUSSED WITH YOU ANY
6 POSSIBLE LEGAL DEFENSES THAT MIGHT BE AVAILABLE TO YOU IF YOU GO
7 TO TRIAL?

8 MR. EDMONDS: YES SIR.

9 THE COURT: HAVE YOU TOLD YOUR ATTORNEY THE NAMES OF ANY
10 AND ALL WITNESSES THAT YOU KNOW OF THAT YOUR ATTORNEY COULD
11 SUBPOENA AND BRING TO TRIAL TO ASSIST YOU IN YOUR DEFENSE IF YOU
12 GO TO TRIAL?

13 MR. EDMONDS: YES SIR.

14 THE COURT: ARE YOU TODAY UNDER THE INFLUENCE OF ANY MIND-
15 ALTERING SUBSTANCE, SUCH AS ALCOHOL, DRUGS OR PRESCRIPTION
16 MEDICATIONS WHICH INTERFERE WITH YOUR JUDGMENT OR ABILITY TO
17 UNDERSTAND WHAT YOU ARE DOING IN COURT TODAY?

18 MR. EDMONDS: NO SIR.

19 THE COURT: ARE YOU AWARE OF ANY MENTAL, EMOTIONAL OR
20 NERVOUS CONDITION THAT YOU HAVE THAT WOULD INTERFERE WITH YOUR
21 JUDGMENT OR ABILITY TO UNDERSTAND WHAT YOU ARE DOING IN COURT
22 TODAY?

23 MR. EDMONDS: NO SIR.

24 THE COURT: ARE YOU PLEADING GUILTY TODAY OF YOUR OWN FREE
25 WILL?

1 MR. EDMONDS: YES SIR.

2 THE COURT: ARE YOU IN FACT GUILTY OF THE OFFENSE OF
3 POSSESSION OF COCAINE WITH INTENT TO DISTRIBUTE, SECOND OFFENSE?

4 MR. EDMONDS: YES SIR.

5 THE COURT: PLEASE GIVE ME THE FACTS, SOLICITOR.

6 MS. DESCH: THANK YOU, YOUR HONOR. YOUR HONOR, ON MAY 14,
7 2009, AT APPROXIMATELY 1:15 A.M., OFFICER WOOTEN OF THE FORT MILL
8 POLICE DEPARTMENT OBSERVED A CAR DRIVING FAILING TO USE A TURN
9 SIGNAL MAKING A LEFT ONTO HIGHWAY 160. WHEN HE PULLED THAT
10 VEHICLE OVER, HE MET WITH THE TWO OCCUPANTS OF THE CAR. THE
11 DRIVER OF THE CAR WAS DAVID EDMONDS, THE COUSIN OF THE
12 DEFENDANT, GERVAIS EDMONDS, STANDING BEFORE YOU TODAY.

13 THE DRIVER OF THE CAR WAS SUSPECTED OF DRIVING UNDER THE
14 INFLUENCE. BOTH PARTIES WERE BROUGHT OUT OF THE CAR AND THERE
15 WAS AN INVESTIGATION AS TO DAVID'S SOBRIETY. THERE WAS A FIELD
16 SOBRIETY TEST. EVENTUALLY IT WAS DETERMINED THAT HE WAS TO BE
17 ARRESTED AND THERE WAS A SEARCH OF THE CAR.

18 IN THE CAR THE OFFICERS FOUND A WRAPPED-UP DIAPER IN THE
19 CENTER, FRONT CONSOLE WITH \$108 IN IT. THERE WAS ALSO ONE GRAM OF
20 CRACK, A LITTLE OVER ONE GRAM OF CRACK FOUND. AND THERE WAS A
21 RAZOR, USED TO CUT, AND SOME BAGS.

22 ORIGINALLY, WHEN I LOOKED AT THIS IT APPEARED TO BE A
23 POSSESSION ONLY CASE, BASED ON WHAT THE OFFICER HAD GIVEN ME.
24 ONCE IT WAS SET FOR TRIAL MR. SCHUSTERMAN, WHO WAS REPRESENTING
25 DAVID EDMONDS, CAME TO ME WITH SOME INFORMATION AND HAD MR.

1 EDMONDS BRING THIS STATEMENT TO ME SAYING THAT HE WANTED TO
2 TESTIFY FOR THE STATE. AND THE INFORMATION HE GAVE AND I HAVE
3 GIVEN TO THE DEFENSE WAS THAT THEY WERE IN FACT DRIVING AROUND,
4 THAT THEY WERE BOTH IN CHARLOTTE AND CAME DOWN TO THIS AREA;
5 AND THAT DAVID WAS DRIVING GERVAIS AROUND TO SELL CRACK, WHICH
6 OBVIOUSLY MADE THE STATE'S CASE MUCH STRONGER, WHICH IS WHY WE
7 PROCEEDED.

8 TO GIVE YOU PRIORS, YOUR HONOR. THIS IS HIS SECOND OFFENSE.
9 BACK IN 2060, MR. EDMONDS, THIS DEFENDANT, MR. EDMONDS WAS
10 CONVICTED OF POSSESSION WITH INTENT TO DISTRIBUTE CRACK COCAINE
11 AND A PROXIMITY CHARGE.

12 THE COURT: MR. EDMONDS, YOU'VE HEARD THE FACTS RECITED TO
13 THE COURT BY THE SOLICITOR WITH REGARDS TO THIS CHARGE. DO YOU
14 DISAGREE IN ANY WAY WITH THE FACTS STATED ON THIS CHARGE?

15 MR. EDMONDS: NO SIR.

16 THE COURT: I FIND THE DECISION OF THE DEFENDANT, GERVAIS
17 EDMONDS, TO PLEAD GUILTY OF THIS CHARGE TO BE MADE FREELY,
18 VOLUNTARILY, AND INTELLIGENTLY. HE'S HAD THE REPRESENTATION OF A
19 COMPETENT ATTORNEY WITH WHOM HE SAYS HE IS SATISFIED. I FIND THE
20 FACTS PRESENTED TO THE COURT BY THE SOLICITOR'S OFFICE AND
21 CONCURRED IN BY THE DEFENDANT FULLY SUPPORT THE GUILTY PLEA IN
22 THIS CASE. AND I WILL ACCEPT THE PLEA AS FREELY AND VOLUNTARILY
23 GIVEN.

24 MR. EDMONDS, IF YOU DISAGREE WITH THE PROCEEDING IN WHICH
25 YOU ARE CURRENTLY INVOLVED, AND THAT WOULD INCLUDE THE SEALED

1 SENTENCE MATTER, YOU WOULD HAVE TEN DAYS FROM TODAY'S DATE TO
2 FILE A NOTICE OF INTENT TO APPEAL. DO YOU UNDERSTAND YOUR RIGHT
3 TO APPEAL IF YOU DISAGREE WITH THE TWO CHARGES?

4 MR. EDMONDS: YES SIR.

5 THE COURT: COUNSEL.

6 MR. SULLIVAN: THANK YOU, YOUR HONOR. MAY IT PLEASE THE
7 COURT. AS GERVAIS HAS INDICATED, HE IS 29 YEARS OLD. HE WILL
8 ACTUALLY BE THIRTY LATER ON THIS MONTH. HE HAS A FOUR-YEAR OLD
9 ADOPTED DAUGHTER. HE'S ALSO EXPECTING HIS FIRST SON THIS MONTH. HE
10 LIVES IN ROCK HILL WITH HIS GIRLFRIEND.

11 YOUR HONOR, HE ATTENDED ROCK HILL HIGH SCHOOL THROUGH THE
12 NINTH GRADE. HE DID COMPLETE HIS GED WHILE HE WAS INCARCERATED
13 AT CATAWBA PRE-RELEASE CENTER. HE HAS BEEN WORKING, DOING CAR
14 DETAILING IN ROCK HILL.

15 YOUR HONOR, WITH RESPECT TO THE FIRST CASE, THE FAILURE TO
16 STOP CASE, IN WHICH THE SENTENCE WAS SEALED TODAY, THAT WAS A TIA,
17 YOUR HONOR. I SPOKE WITH GERVAIS BRIEFLY ABOUT WHY HE, WHERE HE
18 WENT AND WHY HE CHOSE NOT TO BE PRESENT AT HIS TRIAL. ESSENTIALLY
19 WHAT HE TELLS ME IS HE KNEW THAT HIS FIRST SON WAS GOING TO BE
20 BORN LATER ON THIS MONTH. AND BASICALLY HE MADE A DECISION THAT
21 ULTIMATELY DID NOT PAN OUT. BUT HE WAS HOPING TO BE OUT IN THE
22 COMMUNITY WHILE HIS CHILD WAS BORN, YOUR HONOR. AND THAT'S THE
23 REASON WHY HE DID DISAPPEAR, AND HE HAS BEEN PICKED UP ON A
24 WARRANT.

1 THIS CASE HAS BEEN ON THE TRIAL DOCKET FOR SOME TIME NOW,
2 SINCE THE FIRST OF NOVEMBER. AT THE START THE SOLICITOR DID MAKE
3 AN OFFER INITIALLY IN THIS CASE TO ALLOW GERVAIS TO PLEAD TO A
4 POSSESSION LEVEL OFFENSE. I UNDERSTAND THAT HAD THAT BEEN ON THE
5 TRIAL BOARD, BY DUE TO ADDITIONAL EVIDENCE BY THE CO-DEFENDANT,
6 THE STATE IS NO LONGER ABLE TO MAKE THAT PLEA OFFER IN THIS CASE,
7 YOUR HONOR.

8 BUT IT WOULD HAVE BEEN THE DEFENSE'S POSITION AT TRIAL THAT
9 THIS WAS A POSSESSION LEVEL CASE. IT WAS JUST OVER ONE GRAM OF
10 CRACK COCAINE FOUND AT THE SCENE, YOUR HONOR. BUT FOR HIS CO-
11 DEFENDANT'S TESTIMONY, I THINK CERTAINLY WE WOULD HAVE HAD A
12 VERY STRONG ARGUMENT AT TRIAL FOR A POSSESSION LEVEL OFFENSE. I
13 JUST WANTED TO LET YOUR HONOR THAT WAS ON THE TABLE AT ONE TIME.
14 BUT FOR HIS CO-DEFENDANT'S TESTIMONY.

15 I WOULD ASK YOUR HONOR TO ACCEPT HIS PLEA AT THIS TIME. I
16 HAVE BEEN OVER THE FULL DISCOVERY WITH HIM. HE UNDERSTANDS THE
17 RAMIFICATIONS OF HIS PLEA, YOUR HONOR. AND HE UNDERSTANDS THAT
18 AT THIS POINT HE HAS TWO STRIKES ON HIS RECORD. AND HE
19 UNDERSTANDS IF HE GETS CONVICTED OF THIS TYPE OF OFFENSE AT SOME
20 TIME IN THE FUTURE, HE UNDERSTANDS THAT HE IS GOING TO BE FACING
21 POTENTIALLY LIFE IN PRISON.

22 YOUR HONOR, GERVAIS HAS TOLD ME THAT RATHER THAN RUN THE
23 RISK OF GETTING POTENTIALLY UP TO THIRTY YEARS IN PRISON, HE SAYS
24 THAT AT THIS POINT AT 29 YEARS OF AGE THAT HE WANTS TO BE A PART OF
25 HIS SON'S LIFE. AND HE KNOWS AT THIS POINT, YOUR HONOR, OF COURSE,

1 CAN GIVE HIM THE FULL CAP. AND HE INTENDS TO BE OUT WHEN HIS SON IS
2 SIX OR SEVEN YEARS OF AGE, RATHER THAN WHEN HE IS A GROWN MAN.

3 WE WOULD ASK YOUR HONOR TO CONSIDER GOING UNDER THE CAP IN
4 THIS. I ASK THE COURT TO SENTENCE HIM TO THE MINIMUM OF FIVE YEARS,
5 AND GET INTO EIGHTY-FIVE PERCENT, NO PAROLE OFFENSE. WE ASK YOUR
6 HONOR TO TAKE THAT INTO CONSIDER.

7 THE CO-DEFENDANT IN THIS CASE, TO MY UNDERSTANDING, THE
8 RECOMMENDATION IN HIS WILLINGNESS TO TESTIFY, IS THAT THE CO-
9 DEFENDANT, WHO WAS ALSO CHARGED WITH A PWID THIRD LEVEL OFFENSE
10 WILL BE RECEIVING PROBATION IN EXCHANGE FOR HIS AGREEING TO
11 TESTIFY AS TO WHAT HAPPENED. AND I WOULD ASK YOUR HONOR TO TAKE
12 THAT INTO CONSIDERATION IN FASHIONING A SENTENCE FOR GERVAIS.

13 THE ONLY LAST THING I WOULD ASK YOUR HONOR IS THAT HIS
14 SENTENCE WHATEVER YOUR HONOR DETERMINES IS APPROPRIATE, THAT
15 THAT BE RUN CONCURRENT WITH WHAT HE HAS RECEIVED ON THE FIVE
16 YEARS WITH FAILURE TO STOP.

17 THE COURT: MR. EDMONDS, ANYTHING YOU WANT TO SAY TO THE
18 COURT?

19 MR. EDMONDS: I WOULD JUST ASK THAT THE AGE I AM NOW, THAT I
20 WILL BE ABLE TO GET OUT IN TIME TO SEE MY SON GROW UP.

21 THE COURT: THE SENTENCE ON CASE NUMBER 09-GS-46-3783, IS THAT
22 GERVAIS LAVAR EDMONDS, HAVING PLEAD GUILTY TO POSSESSION WITH
23 INTENT TO DISTRIBUTE COCAINE, SECOND OFFENSE, BE COMMITTED TO THE
24 STATE DEPARTMENT OF CORRECTIONS FOR A DETERMINATE PERIOD OF
25 SEVEN YEARS, WHICH WILL RUN CONCURRENT WITH THE FIVE YEAR

1 SENTENCE UNSEALED TODAY ON 2009-GS-46-396. HE WILL BE GIVEN CREDIT
2 FOR ANY TIME SERVED ON EACH CHARGE.

3 MS. DESCH: THANK YOU, YOUR HONOR.

4 MR. SULLIVAN: THANK YOU, YOUR HONOR.

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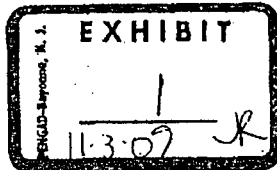
25

1 CERTIFICATE

2 I, THE UNDERSIGNED PHYLLIS S. BARRETT, CIRCUIT COURT REPORTER
3 FOR THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE
4 FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD
5 OF THE TRIAL IN THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE COURT
6 OF GENERAL SESSIONS FOR THE SIXTEENTH JUDICIAL CIRCUIT, YORK
7 COUNTY, SOUTH CAROLINA ON THE 7TH DAY OF DECEMBER, 2009.

8 I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR
9 INTEREST TO ANY PARTY HERETO.

10
11 PHYLLIS S. BARRETT
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62801EI, 62803EI
Criminal Charging Document No.

BAIL PROCEEDING
FORM II

STATE OF SOUTH CAROLINA

COUNTY OF York

IN THE

☒ COURT OF GENERAL SESSIONS
☐ MAGISTRATE COURT
☐ MUNICIPAL COURT OF _____

STATE OF SOUTH CAROLINA

ORDER SPECIFYING METHODS AND CONDITIONS OF RELEASE

Gervais Lavar Edmunds
NAME OF DEFENDANT

Offense Charged: Fail to Stop for blue light, Habitual Traffic

At a bail proceeding conducted by the undersigned judge, for the defendant named above, it was determined by the court (check one or both):

- ☒ The release of the defendant on recognizance will not reasonably assure his appearance as required.
☒ The release of the defendant on recognizance will result in an unreasonable danger to the community.

This determination was based upon the following findings of fact: _____

Nature of Charge

[Considerations: Nature and circumstances of the offense charged, the defendant's family ties, employment, financial resources, character and mental condition, the length of his residence in the community, his record of convictions, and any record of flight to avoid prosecution or failure to appear at other court proceedings.]

THEREFORE, IT IS HEREBY ORDERED:

1. That the above named defendant be released from custody on the condition that he will personally appear before the designated court at the place, date and time required to answer the charge made against him and do what shall be ordered by the court and not depart the State without the permission of the court and be of good behavior.

2. That the above named defendant be released from custody provided as follows:

CASH IN LIEU OF BOND

☐ The defendant, acknowledges himself to be indebted to the State of South Carolina in the sum of _____ to secure his release from custody. Should the defendant fail to comply with all terms and conditions of this Order, this sum of money is subject to being forfeited to the State.

CASH PERCENTAGE IN LIEU OF BOND

☐ The defendant, acknowledging himself to be indebted to the State of South Carolina in the full amount of _____, his release to be obtained by payment to the court of _____ % (not to exceed 10%) of the full amount of the bond, deposits _____ to secure his release from custody. Should the defendant fail to perform the conditions of this Order, the full amount shall be levied on his real and personal property for the use of the State.

APPEARANCE RECOGNIZANCE WITH SURETY

☒ The defendant will provide good and sufficient surety approved by the court, in the form hereinafter set forth in this Order, acknowledging an indebtedness to the State in the amount of \$5,000.00.

3. That the defendant shall appear at (check one):

☒ the term of COURT OF GENERAL SESSIONS beginning on TBD
at _____ o'clock, M, at _____
and remain there throughout that term of court. If no disposition is made during that term, the defendant shall appear and remain throughout each succeeding term of court until final disposition is made of his case, unless otherwise ordered by the court.

☐ the session of ☐ MAGISTRATE COURT ☐ MUNICIPAL COURT beginning on _____
at _____ o'clock, M, at _____
If no final disposition is made during that session, the defendant shall appear at such other times and places as ordered by the court.

INITIALS OF DEFENDANT JS-X

4. That the defendant will notify the court promptly if he changes his address from the one contained in this order and he will comply with those conditions described hereinafter in the Order.

SIGNATURE OF JUDGE [Signature]

DATE 1/24/07

ORIGINAL AND ONE COPY OF THIS FORM ARE TO BE COMPLETED IN EVERY BAIL PROCEEDING IN WHICH IT IS USED
Original Copy For The Trial Court - Copy For The Defendant

ACKNOWLEDGEMENT BY DEFENDANT

I understand that if I violate any condition of this Order, a warrant for my arrest will be issued.

I understand and have been informed that I have a right and obligation to be present at trial and should I fail to attend the court, the trial will proceed in my absence.

It has been explained to me that if I fail to appear before the court as required, a warrant for my arrest will be issued.

1584 Eagles PL
ADDRESS
Rock Hill, SC 29730
CITY/STATE/ZIP
327-0165
TELEPHONE
249-43-2716
SOCIAL SECURITY NUMBER
[Signature]
SIGNATURE OF DEFENDANT
Jan 24, 09
DATE
[Blank]
ATTORNEY REPRESENTING ACCUSED (IF KNOWN)

SPECIAL CONDITIONS OF RELEASE

a. ☐ Placement in custody. The defendant is placed in the custody of: _____
NAME OF PERSON OR ORGANIZATION

ADDRESS CITY/STATE ZIP TELEPHONE
who agrees (1) to supervise the defendant as set forth by the court, (2) to use every effort to assure the appearance of the defendant at all scheduled hearings before the court, and (3) to notify the court immediately in the event the defendant violates any conditions of his release or disappears.

SIGNATURE OF CUSTODIAN (IF APPROVED)

DATE

b. ☐ Restrictions on Travel, Association or Residence. The defendant will comply with each of the following conditions: _____

c. ☐ Part-time Release. The defendant will be released from custody from _____ o'clock, _____ to _____ o'clock, _____
on _____ on condition that he return to the custody of _____
DATE(S) NAME OF PERSON OR ORGANIZATION
at _____ as designated.
LOCATION

d. ☐ Other Conditions. The defendant will comply with the following other conditions of release: _____

APPEARANCE RECOGNIZANCE WITH SURETY

On the 24th day of Jan, 2009, personally appeared before the undersigned judge the surety named below who acknowledged himself indebted to the State of South Carolina, in the sum of \$55,000.00, such sum to be levied on his real and personal property for the use of the State, should named defendant fail in performing the conditions of this Order.

The surety, being duly sworn, says that he is a resident and free holder within the State and is worth the sum acknowledged and underwritten herein, over all his debts and liabilities, and exclusive of property exempt from execution.

[Signature] 8033273597
NAME OF SURETY BONDSMAN TELEPHONE
[Signature]
ADDRESS OF SURETY BONDSMAN
CHSC 29730
CITY/STATE/ZIP
[Blank]
NAME OF INSURANCE COMPANY
[Blank]
ADDRESS OF INSURANCE COMPANY
[Blank]
CITY/STATE/ZIP
[Signature]
SIGNATURE OF SURETY BONDSMAN
[Signature]
SIGNATURE OF JUDGE
1/24/2009
DATE

STATE OF SOUTH CAROLINA
COUNTY OF YORK

ORDER OF DISCHARGE

OFFICE OF MAGISTRATE

General Sessions

Township

To the Sheriff or Keeper of the County Jail or Prison Camp,

GREETINGS:

IN-AS-MUCH as Gervais Edmonds is
(Defendant's Name)

in Your custody now for want of finding sureties to The State; the same hath found me sufficient sureties in the amount of:

LIST EACH CHARGE, BOND TYPE AND BOND AMOUNT SEPARATELY.

CHARGE	BOND TYPE	BOND AMOUNT
02801ET Fail Stop Blue Light	C/S	\$ 50,000
02803ET Habitual Offender	C/S	\$ 5,000
		\$
		\$
		\$
		\$
0 Knox Bonding		\$

BOND TYPES:

Personal Recognizance, Surety Bond, Cash, Cash Percentage in Lieu of Bond, Summoned, Time Served.

THESE ARE, THEREFORE, to authorize and require that if the defendant named above does remain in your custody for no other cause, then you forbear to detain him/her no longer, but suffer the defendant to go at large.

IT IS SO ORDERED:

Given under my Hand and Seal this 24th day of Jan 2009 A.D.

Magistrate

In and for the

General Sessions

Township.

Distribution: White - Detention Center
Yellow - Trial Magistrate

FILED-13

STATE OF SOUTH CAROLINA
COUNTY OF YORK

BOND HEARING CERTIFICATION

CITY OF ROCK HILL

State
VS.

Township

IT APPEARS that the defendant named above was arrested on or about the 2 day of Nov, 2007 for the specific charges herein named. The defendant now appears before the undersigned Judge for Rock Hill Municipal Court, South Carolina on this the 2 day of Nov, 2007 for the purpose of a Bond Hearing to determine if the defendant is entitled to such bond.

IT IS HEREBY ORDERED that the Defendant's bond be set for each charge as follows:

WARRANT/ TICKET #	CHARGE	ARREST DATE/ TIME	BOND TYPE	AMOUNT
G2P01EE	Fail Stop B.L.	1-6-09 8A	C1	\$50,000
G2P03EE	Heb. Off.	"	C1	\$5,000
				\$
				\$
This is 3 rd offense for Fail Stop B&C.				\$
				\$

BOND TYPES: Personal Recognizance, Surety Bond, Cash, Summons, Cash % in Lieu of Bond, Denied.

IS FURTHER ORDERED, that the Defendant remain in the custody of the Rock Hill City Jail until such time sufficient sureties found and an Order of Discharge is issued.

IS SO ORDERED:

Location: White - Detention Center
Yellow - Trial Magistrate
Pink - Defendant's Copy

Municipal Judge, City of Rock Hill

(L.S.)

STATE OF SOUTH CAROLINA
COUNTY OF YORK

BOND HEARING CERTIFICATION

CITY OF ROCK HILL

State
VS.

FILED-RECEIVED

2008 NOV -5 PM 2:00

DAVID HAMILTON
C.C.P. & S.
YORK COUNTY, SC

Derwin L. Edmonds

215

Township

IT APPEARS that the defendant named above was arrested on or about the 2 day of Nov, 2007 for the specific charges herein named. The defendant now appears before the undersigned Judge for Rock Hill Municipal Court, South Carolina on this the 2 day of Nov, 2007 for the purpose of a Bond Hearing to determine if the defendant is entitled to such bond.

IT IS HEREBY ORDERED that the Defendant's bond be set for each charge as follows:

WARRANT/ TICKET #	CHARGE	TRIAL DATE/ TIME	BOND TYPE	AMOUNT
62P01EE	Fail Stop B.L.	1-6-98A	CIS	\$50,000
62P03EE	Heb. vph.	"	CIS	\$5,000
				\$
				\$
This is 3 rd offense for Fail Stop B&C.				\$
				\$
				\$

BOND TYPES: Personal Recognizance, Surety Bond, Cash, Summons, Cash % in Lieu of Bond, Denied.

IT IS FURTHER ORDERED, that the Defendant remain in the custody of the Rock Hill City Jail until such time sufficient sureties are found and an Order of Discharge is issued.

IT IS SO ORDERED:

[Signature]

(L.S.)

Municipal Judge, City of Rock Hill

Distribution: White - Detention Center
Yellow - Trial Magistrate
Pink - Defendant's Copy

Steven Edmunds

Name of Defendant

628015E, 03EE

Warrant/Ticket No.

County/Municipality of 213

Charges: <u>Fail Stop Blue Light, Hah. off</u>	Trial Court: <u>CS</u>
--	------------------------

CHECKLIST FOR MAGISTRATES AND MUNICIPAL JUDGES

Directions: Magistrates and municipal court judges must use this checklist for ALL GENERAL SESSIONS and for ALL MAGISTRATE AND MUNICIPAL COURT CASES IN WHICH BOND HAS BEEN SET BY A JUDGE. The judge shall attach this checklist to the charging document (arrest warrant or uniform traffic ticket) when the defendant first appears before a judge for a bond hearing or first appearance, and complete the appropriate sections. Defendant must be provided a completed copy of this form.

3rd off Fail Stop
last 07-3yr

☐ BAIL PROCEEDING/☐ FIRST APPEARANCE (NON-BAILABLE OFFENSES)

1. Form used at bail proceeding ☐ Bond Form I (personal recognizance) ☒ Bond Form II (surety, cash, percentage) ☐ None (Not Bailable Offense)

2. For cases in which bond was set, defendant was informed:

☒ a. Warrant for arrest will be issued for violation of any condition of bail bond order.

☐ b. His right and obligation to be present at trial and that trial will proceed in his absence if he fails to attend.

☒ c. Failure to appear in court as required will result in institution of additional criminal charges. Failure to appear in connection with a felony, or while awaiting sentence after conviction, additional charge has penalty of not more than \$5,000 or imprisonment for not more than 5 years, or both. Failure to appear in connection with a charge for a misdemeanor for which the maximum possible sentence is at least one year, additional charge has penalty of not more than \$1,000 or imprisonment for not more than one year, or both. Failure to appear in court as required on any charge not specified above will result in the issuance of a warrant for defendant's arrest, as well as loss of any posted bond.

3. For cases to be tried in Court of General Sessions, defendant was informed of right to preliminary hearing if requested within ten (10) days:

☐ Orally ☐ In writing (NOTE: Defendant must be informed of right both orally and in writing.)

☐ 4. Defendant was informed of the right to trial by jury.

5. In all general sessions cases, in all criminal domestic violence cases, and in all magistrate or municipal cases in which a prison sentence is likely to be imposed, defendant was informed of the following:

☒ a. Charges against defendant and nature of the charges.

☐ b. Right to counsel and right to court-appointed counsel if financially unable to employ counsel.

☒ c. Defendant was informed orally and provided a copy of this form advising him of his right to obtain court appointed counsel if indigent (must meet federal poverty guidelines) and instructions on how to obtain court appointed counsel. In order to apply for court appointed counsel, defendant is required to appear before Lahn located at _____ for indigency screening. Defendant is responsible for a statutory fee of \$ _____ for indigency screening.

☐ 6. In all criminal domestic violence cases and any case where defendant is subject to an Order of Protection or Restraining Order, defendant signed and was provided a document explaining that entering the grounds or property of a domestic violence shelter in which the person's household member resides constitutes an additional misdemeanor charge and, if in possession of a dangerous weapon, an additional felony charge.

Appearance or
Hearing Date:

11-2-08

[Signature]
Judge's Signature

DOCKET NO. 2009-GS-46-00346

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

WITNESSES

HPD/Tallmadge

The State of South Carolina

County of York

Defendant

COURT OF GENERAL SESSIONS

January 22, Term 2009

I hereby appear in my own proper person and plead guilty to the within indictment or to

ARREST WARRANT NUMBER

2801EI

THE STATE

VS.

Defendant

Witness:

C.C.C. PLS. AND G.S.

ACTION OF GRAND JURY

GERVAIS LAVAR EDMONDS

TRUE BILL

VERDICT

Guilty

Indictment for

FAILURE TO STOP FOR A
BLUE LIGHT

SC Code: 56-5-750
CDR Code: 2396

Foreperson of Grand Jury

Date: 1/22/09

Foreperson of Petit Jury

Date:

164

Denise April
11/04/09

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF YORK

CERTIFIED TRUE COPY

2009 DEC 17 AM 11:49

At a Court of General Sessions, held on January 22, 2009, the Grand Jurors of York County present upon the indictment of

FAILURE TO STOP FOR A BLUELIGHT

The Defendant, Gervais Lavar Edmonds, did in York County, South Carolina, on or about November 2, 2008, while driving a motor vehicle on a road, street, or highway of the State, unlawfully fail to stop for a law enforcement vehicle after being signaled by a blue light or a siren to do so, all in violation of Section 56-5-750, Code of Laws of South Carolina (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

166 COUNTY OF
STATE

York

VS.

Gervais Edmonds

INDICTMENT/CASE#: 2009GS4600396

A/W#: 62801EI

AKA:

CERTIFIED TRUE COPY

Date of Offense: 11/2/2008

Race: B

Sex: M

Age: 29

S.C. Code §: 56-05-0750(B)(2)

DOB:

SS#:

2009 DEC 17 AM 11:49

CDR Code #: 2396

Address:

Rock Hill, SC 29730

DL#:

SID#:

DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was
TO: FTSBL 2ND OFFENSE☒ CONVICTED OF or ☐ PLEADS

in violation of § 56-05-0750(B)(2) of the S.C. Code of Laws, bearing CDR Code # 2396

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Desch, Jenny E.

SC Bar# 72806

Defendant

Attorney for Defendant

SC Bar# 76661

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %)

\$

§ 14-1-211(A)(1) (Conv. Surcharge)

\$

§ 14-1-211(A)(2) (DUI Surcharge)

\$100

§ 56-5-2995 (DUI Assessment)

\$12

§ 56-1-286 (DUI Breath Test)

\$25

§ 47.12 (Public Def/Prob)

\$500

§ 14-1-212 (Law Enforce. Funding)

\$25

§ 14-1-213 (Drug Court Surcharge)

\$100

§ 50-21-114(BUI Breath Test Fee)

\$50

§ 56-5-2942(J) (Vehicle Assessment)

\$40/ea

§ 90.7 (SCCA Surcharge)

\$5

3% to County (if paid in installments)

\$

TOTAL

\$ 30.00

Clerk of Court/ Deputy Clerk

David Hamilton

Court Reporter:

Phyllis Barnett

SCCA/217 (06/2009)

PRESIDING JUDGE

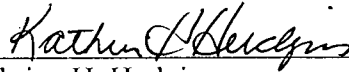
Judge Code: 210

Sentence Date: 11-4-09

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

September 10th, 2012



Kathrine H. Hudgins
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT